

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
MAY 6, 2009 - 6:30 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
  - A. April 1, 2009 3
4. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC)
  - B. Policy Committee
  - C. Other Committee/Commission Reports
5. PRESENTATION – SHAPING OUR SHORES – MS. STEPHANIE LUTON
6. PRESENTATION – PARKS AND RECREATION MASTER PLAN – MR. MARK WENGER
7. PUBLIC HEARINGS
  - A. ZO-0003-2009 Zoning Ordinance Amendment - Setback reductions, in B-1, General Business, 30  
and M-1,Limited Business/Industrial
  - B. SUP-0004-2009 Dee’s Day Care 34
  - C. SUP-0008-2009 CVS at Norge 38
  - D. SUP-0010-2009 Michael J Hipple Contractor’s Warehouse 50
8. PLANNING DIRECTOR’S REPORT 55
9. COMMISSION DISCUSSIONS AND REQUESTS
10. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF APRIL, TWO-THOUSAND AND NINE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

Deborah Kratter  
Chris Henderson  
Reese Peck  
Jack Fraley  
Rich Krapf  
Joe Poole III  
George Billups

Staff Present:

Allen Murphy, Director of Planning/Assistant  
Development Manager  
Angela King, Assistant County Attorney  
Melissa Brown, Zoning Administrator  
Leanne Reidenbach, Senior Planner  
Jason Purse, Senior Planner  
Jose Ribeiro, Senior Planner  
Terry Costello, Development Management Assistant

2. PRESENTATION – RECOGNITION OF MR. ANTHONY OBADAL

Mr. Rich Krapf read a resolution of appreciation for Mr. Anthony Obadal.

Ms. Deborah Kratter moved to approve the resolution.

Mr. Joe Poole III seconded the motion.

In a roll call vote the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Krapf then asked Mr. Jack Fraley to present a certification of appreciation.

Mr. Fraley spoke on Mr. Obadal's accomplishments during his tenure on the Planning Commission. He stated that Mr. Obadal developed the initiative to make improvements and changes to the Capital Improvements Program (CIP) process. Mr. Fraley gave an example of a case where Mr. Obadal made a suggestion to the applicant to install a stream monitoring system. He expressed his gratitude for all of the work that Mr. Obadal had done while on the Planning Commission. Mr. Fraley then presented a certificate of appreciation to Ms. Nancy Obadal, the wife of Mr. Obadal.

Ms. Nancy Obadal accepted the certificate on behalf of her husband. She stated that he enjoyed working with members of the Planning Commission and staff.

3. PUBLIC COMMENT

Mr. Krapf opened the public comment period. Seeing no one, he closed the public comment period.

4. MINUTES

A. March 4, 2009 Regular Meeting

Ms. Kratter had some additional information to add on page 14.

Ms. Kratter moved that the minutes be approved with corrections.

Mr. Henderson seconded the motion.

In a unanimous voice vote, the minutes were approved. (7-0)

5. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated the DRC did not meet in March. There will be a special meeting on April 14, 2009 at 4 p.m. to review exterior elevations of a proposed drugstore in Norge.

B. Policy Committee

Mr. Chris Henderson stated the Policy Committee met on March 11, 2009 to discuss a variety of issues, some of which were on the agenda this evening. There was discussion on setback reductions in certain zoning districts, limitations on vehicle sales on certain corridors, sign illumination along Community Character Corridors, and the refinement of regulations regarding parking ratios for outlet malls. Discussion of setback reductions and CIP rating criteria will be discussed further at the April meeting.

Ms. Kratter moved to approve the report.

Mr. Poole seconded the motion.

In a unanimous voice vote the reports were approved. (7-0)

C. Other Committee / Commission Reports

Mr. Fraley gave a report on the progress of the Steering Committee. He stated the Committee continues to meet weekly and that the schedule for April and May have been posted on the website, [jccplans.org](http://jccplans.org). He stated that the Steering Committee has given preliminary approval to seven out of ten Comprehensive Plan sections. Mr. Fraley stated these included demographics, population needs, environment, economic development, housing, public facilities, and parks and recreation. The remaining sections included community character, transportation, and land use. He stated the current schedule is for the Committee's work to be completed by May 21, 2009 and for the plan to be presented to the Board of Supervisors and the Planning Commission at a joint work session on June 23, 2009. Mr. Fraley stated meetings will be

scheduled for the Planning Commission's consideration throughout July and the first meeting for the Board of Supervisor's consideration should take place in August. He encouraged the Board of Supervisors and Planning Commission to access materials, technical reports, and the goals, strategies and actions on [jccplans.org](http://jccplans.org).

6. PLANNING COMMISSION CONSIDERATIONS

A. Initiating Resolution – To amend the M-1 Zoning District to allow for front setback modifications

Mr. Jason Purse stated staff has received a request to amend the Zoning Ordinance to allow for front setback reductions to 20 feet in the M-1 Limited Business Industrial District. He stated similar language currently exists in the B-1, General Business District but currently allows reductions to 25 feet. Staff would also amend this section to have similar reduction standards. Mr. Purse stated this request is presented at this time because certain M-1 parcels are located in Community Character Areas where approved design guidelines suggest reduced front setbacks. Staff recommends that the Planning Commission adopt the resolution and refer this matter to the Policy Committee.

Ms. Kratter moved to approve the resolution.

Mr. Henderson seconded the motion.

In a roll call vote, the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Krapf clarified that approving the resolution was giving the authority to begin studying the issue before it comes before the Planning Commission.

B. Initiating Resolution – To amend Sections 24-2, 24-213, 24-349, and 24-521 of the Zoning Ordinance to replace the term “mentally retarded” with the term “intellectually disabled.”

Mr. Brandon Moon, of the County Attorney's office, stated that HB 760 was approved at the 2008 session of the General Assembly. This initiative removed the terms “mentally retarded” and “mental retardation” from the Virginia Code in favor of the more sensitive term “intellectually disabled.” He stated the term “mentally retarded” appears in the Zoning Ordinance. Staff recommends that the Planning Commission adopt the resolution to initiate consideration of the change to the Zoning Ordinance.

Mr. Krapf asked if it was a legal requirement to change the Zoning Ordinance.

Mr. Moon answered that it was not a legal requirement; however, it is recommended that where the public necessity, convenience, general welfare, or good zoning practice requires it, that these steps be taken. Staff believed that convenience, general welfare, and good zoning practices in this case would trend toward changing to the more sensitive term.

Mr. Fraley asked if any research was done regarding all of the other work done at the General Assembly session.

Mr. Moon answered that the County Attorney's office is reviewing other areas that need further review.

Mr. Henderson moved to approve the resolution.

Mr. Poole seconded the motion.

In a roll call vote, the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

C. Initiating Resolution – to amend Section 24-7, Administrative Fees, of the Zoning Ordinance to establish fees for application for home occupations.

Mr. Krapf congratulated Ms. Melissa Brown on her appointment to Zoning Administrator.

Ms. Brown stated that the Planning and Zoning Divisions conducted a review of the fees to determine if changes needed to be made. Through this process, it was determined that the only change that needed to be made was the addition of the fee for home occupations. She stated due to the advertising deadlines and the public hearings associated with the budget, the ordinance amendment would also be heard later this evening.

Mr. Henderson moved to approve the resolution.

Mr. Poole seconded the motion.

In a roll call vote the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Fraley also congratulated Ms. Brown on her appointment as the Zoning Administrator.

7. PUBLIC HEARINGS

Mr. Krapf stated that case no. SUP-0007-2008, Relocation of Tewning Road Convenience Center had been moved to item no. E on the agenda.

A. ZO-0005-2008 Zoning Ordinance Amendment – Prohibition of Vehicle Sales in Certain Circumstances

Ms. Brown stated that on January 13, 2009 the Board of Supervisors passed an initiating

resolution directing staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to themselves or any immediate family member. This request was forwarded to the Policy Committee for review. Ms. Brown stated that currently there is no prohibition on parking vehicles for sale on lots vacant or otherwise in the County as long as the vehicle owner is compliant with State Code regulations and the location of the vehicle was not in conjunction with other unpermitted vehicle services. She stated that the sale of more than five vehicles in Virginia within a twelve consecutive month period qualifies an individual as a motor vehicle dealer per the Virginia Code, and requires licensure by the State Motor and Vehicle Board. Ms. Brown stated that staff's review consisted of contacting several localities to review their policies and procedures. She stated the majority of localities took action similar to the County by referring to State Code as opposed to instituting their own ordinances. Ms. Brown stated the proposed language is modeled after York County's policy because they have the most specific requirements and the longest standing enforcement history.

Ms. Brown stated the proposed policy would allow for two vehicles at any given time, with the stipulation of no more than five vehicles being sold from a property within a year. It would not permit the sale of vehicles on vacant land, and would not permit sales from non-owners or non-occupants of a parcel. She stated there were sign area limitations proposed and an immediate family requirement. She stated the proposed ordinance change would decrease the response time necessary to abate violations and as a result improve the appearance of roads and entrance corridors. Ms. Brown stated that at the Policy Committee's request, staff has incorporated changes that address the location of the vehicles in cleared areas in consideration of rural areas, and to preserve existing vegetation on wooded lots. She stated the thresholds were increased to permit two vehicles at a time and five vehicles within any twelve month period. She stated that alterations were not made to the permit of sale of vehicles from vacant or unoccupied parcels as it was staff's opinion that the change would be in conflict with the intent of the Ordinance which was to provide for sale of personal vehicles of residents at their homes while curbing the sale of vehicles on vacant parcels in the County.

Ms. Kratter asked about the reference in the current language concerning vehicles for rent or lease, and that in the proposed language these are not mentioned. She asked if there were other sections that referred to this, or was it language that is not needed.

Ms. Brown stated that originally that language was not included in any other section, but if the Commission feels it is necessary, staff is open to adding it.

Ms. Kratter stated that there was no discussion as to whether any of these limitations would in fact apply to vehicles for lease or rent, and if it is the intent to do that, then there should be some clarification that this condition applies.

Mr. Henderson stated that during the Policy Committee deliberations, there were to be two options that would be presented to the Planning Commission with regards to the limitations on the number of vehicles allowed for sale. There other option was one vehicle per sale at a given time, with a maximum of three during a consecutive twelve month period.

Ms. Brown stated it was staff's belief that after deliberations and a review of the minutes,

it had appeared that the decision was to go with the two vehicles at a given time, with a maximum of five. Staff would be more than willing to revisit the discussion for another option.

Mr. Krapf stated that one of his concerns was that by allowing two vehicles at a time, it could give the appearance of being cluttered and also what was the likelihood of a family selling two vehicles at one time. He felt that the one vehicle at a time with a maximum of three, would limit the preponderance of vehicles put on display.

Ms. Kratter stated she thought both options would be considered. She also expressed her preference for the one and three option as opposed to the two and five option. She was concerned about the effect on neighborhoods, and felt that it would benefit everyone if there is not a situation where too many vehicles are for sale.

Mr. Fraley stated he would prefer a one and three option also.

Mr. George Billups asked if there was any information as to the number of cars that the average family in the County owns, and that may be stored at any given time.

Ms. Brown stated that this information could probably be obtained from the Commissioner of Revenue. She stated that data is not available as far as the number of vehicles being stored.

Mr. Poole asked if there was any discussion about additional clearing that the owner might want to increase visibility of these vehicles for sale.

Ms. Brown answered that there was a discussion at the Policy Committee meeting about whether vehicles could be parked in areas of vegetation and trees, whether that would disturb the vegetation. She stated this ordinance does not prevent the clearing of trees unless there is some easement on the property that would prevent that.

Mr. Henderson stated that this discussion was initiated to address a problem on the commercial corridors where vehicles are being displayed by those who are not owners or occupants of property using commercial areas to display vehicles.

Ms. Brown stated it becomes an owner issue from the perspective that the majority of people displaying vehicles are not the owners of the property on the entrance corridors in the major thoroughfares. She stated when it becomes an enforcement issue it is often difficult to determine who owns the vehicles. She stated that contacting them takes some time also. Ms. Brown stated that what happens also is that once those vehicles are removed or in the process of being removed, others show up.

Mr. Krapf opened the public hearing.

Mr. Joseph Swedenborg, of 3026 The Point Drive, asked if this ordinance applies to boats, and how many boats one can sell before one is classified as a dealer. He does not agree with the one vehicle at one time, with three maximum option. He stated that there are many

homeowners' associations in the upper scale neighborhoods that have already addressed this issue. Mr. Swedenborg believed it would be detrimental to those in lower scale neighborhoods.

Ms. Brown stated that she was unsure as to whether the Motor Vehicle Dealer Board addresses the selling of boats.

There being no further public comments, Mr. Krapf closed the public hearing.

Ms. Kratter stated that in paragraph one under the heading of change #1; it does reference boats, so that when vehicles are mentioned throughout the ordinance, boats would be included in that reference.

Ms. Brown clarified that boats would be included in the County ordinance.

Ms. Kratter restated her request that the reference to "for sale or rent" be made throughout the ordinance so that it is consistent.

Mr. Billups expressed his concerns about the problems that other localities have had. He gave the example that in York County, those individuals who are overseas, have several parked cars at their residences. He asked if James City County was addressing issues about several cars parked in the yard.

Ms. Brown answered that this ordinance does not address vehicles that are parked on the property and legally registered and tagged. She stated that the current ordinance does address vehicles that are not property tagged, registered or inspection which is a separate enforcement issue.

Mr. Henderson suggested adding language that a boat may or may not include a trailer, so that the trailer is not counted as a separate component.

Mr. Krapf addressed a question that a citizen had with regards to construction equipment at the entrance of Mirror Lakes. He stated that was the intent of this ordinance, to address the community character corridors and other areas. He did state that this ordinance addresses vehicles for sale, but asked the question of how the County deals with equipment that may be stored in these areas.

Ms. Brown answered that staff would have to make a determination of whether it was a legal land use, such as a contractor's warehouse or storage yard. Otherwise if they were listed for sale, construction equipment is included in the proposed ordinance amendment. Ms. Brown asked for clarification with regards to boats with or without trailers.

Mr. Krapf stated that wording should be added that if the boat is listed with a trailer for sale, that it would be considered one item as opposed to two.

Ms. Kratter suggested that the wording state "a boat for sale with a trailer will be considered one vehicle." Otherwise there may still be some uncertainty as to what "with or



without” means.

Mr. Henderson agreed.

Mr. Krapf initiated the discussion as to what the Commission would prefer with regards to the number of vehicles for sale at one time, and the number allowed per year. The two options are two vehicles for sale at one time, with a maximum of five per year, with the second option being one vehicle at one time, with a maximum of three per year. He stated the first option mirrors language that the State Code has. He stated that if the intent of the ordinance is to reduce the appearance of vehicles on community character corridors that the option may be to reduce the total to three per year and no more than one vehicle at a time.

Mr. Poole stated that he was comfortable with staff’s proposal of two vehicles for sale at one time, with a maximum of five per year. He stated vehicles are commodities that it is in the best interest of the owner to sell, and felt there were more important community character interests that need more attention.

Ms. Kratter stated she felt it was important to minimize the adverse effects on a neighborhood. She stated the County is a unique locality, and that the County needs to do everything it can to foster the idea that esthetics is important. She supports the option with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley agreed with Ms. Kratter.

Mr. Henderson preferred option one, stating that his experience has been that with individuals who sell used vehicles are at the margin, and feels the County should help these people relieve themselves from whatever circumstance they may be in. He stated that with the restriction that the seller needs to be an owner or occupant, or immediate family member, living on the property, he felt these were sufficient.

Mr. Peck stated he was comfortable with both options. He would like to see consistency with other localities so as to have a regional approach.

Mr. Billups was in favor of option two, with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley moved to approve the ordinance changes, but changing from option two to one, allowing one vehicle for sale at one time, with a maximum of three.

Ms. Kratter seconded the motion.

In a roll call vote the amendment was approved. (5-2) AYE: Fraley, Kratter, Billups, Peck, Krapf; NAY: Poole, Henderson.

B. ZO-0006-2008 Zoning Ordinance Amendment – Review of Signage Illumination

Ms. Brown stated that the Board of Supervisors passed an initiating resolution directing staff to pursue a review of the criteria for illumination of the gas pricing component of free standing signage in community character areas and along community character corridors. The proposed language is a working document that attempts to address changes in technology relevant to signs as utilized by the fuel sale's industry in the County and to address concerns expressed by the Policy Committee. She stated specific interests to the Policy Committee were that the signs be monument style and constructed of stone or brick, that the lighting colors be limited to red or white, and that light not generally trespass across property lines as a result of the sign location. She stated staff has worked at addressing these issues by including these as requirements and addressed the issue of crossing property lines by requiring no more than 0.1 foot-candles as measured at the property line. This would be verified by a submission of a diagram or the demonstration of an acceptable measurement with a light meter at the property line. Ms. Brown stated staff has made an alternative recommendation after discussion with staff and the County Attorney's office. It was suggested that the lights be of one color, and not conflict with emergency services lighting.

Mr. Fraley asked about the colors, in that the sign could be any color.

Ms. Brown stated the signage itself would be under the review of the Planning Director if it is in a community character corridor. However, color regulations can be addressed in the ordinance, but the legal issue was of a large concern.

Ms. Angela King stated that the specific color is not so much the issue, but the basis for choosing the colors. She stated it cannot be based on aesthetics, but rather based on health, safety or general welfare. She stated zoning ordinances may be based on these considerations.

Mr. Fraley asked about considerations such as fitting in with the community, the character, and the surroundings. He asked if this could be researched more.

Ms. King stated a color could be specified, but the basis needs to fit in the category of health, safety and general welfare. For example, some of the issues raised with the red color would be safety related issues and the confusion with emergency services lighting.

Ms. Brown suggested colors for readability could be red, orange, green, violet, blue or olive green. She stated that the color could be tied to a safety concern.

Mr. Fraley made the comparison that paint colors can be regulated.

Ms. Brown stated that the County has the ability to regulate paint colors in legislative cases.

Mr. Fraley asked about the restriction on the illumination and the brightness given the situation that gave reason for this change to the ordinance.

Ms. Brown answered that if the ordinance was adopted the lighting would first be tested with a light meter. She stated that if the test was inconclusive then the requirement would be to provide an iso-footcandle diagram to prove that light trespass was not greater than what was stated in the ordinance.

Mr. Peck stated that his suggestion would be white, since that is what is already in these areas.

Ms. Brown stated that it is more of a result that current requirements for community character corridors and community character areas require either backlit or lighted channel letters. She stated in channel lettering, white is a very vivid color and has a high level of readability. She said that bulbs used for this type of lettering are normally white also.

Mr. Peck questioned the fact that in regulating the type of systems allowed, it is in fact regulating the light.

Ms. King stated that the color of the light could be regulated so long as the decision is based on a safety concern or a general welfare concern. For example, if white were chosen, that could be tied to a safety concern since it may be more readable.

Ms. Brown stated that reasoning could also be used, that since white is most prevalent, that using other colors might be a distraction, and therefore a safety concern.

Mr. Krapf asked if there were examples of wording in ordinances from other localities that would allow for a certain latitude within the constraints that have been mentioned, but attempt to limit the available options.

Ms. King stated that she did not view ordinances from other localities.

Ms. Brown stated the ordinances that she has reviewed from other jurisdictions deal with intensity in terms of the iso-footcandle diagram. She stated that no locality limited the color of lights. She stated that the color of lights may be built into design guidelines for particular areas.

Mr. Krapf asked if the Planning Director would need to approve any LED sign before it was installed.

Ms. Brown stated that in community character corridors and in community character areas the Planning Director approves internally illuminated signage, other than the gas pricing component.

Ms. Kratter asked if the way the ordinance change is drafted, can the gasoline signage be any color.

Ms. Brown answered that the way it is drafted, the gasoline portion of the sign could be any color as long as it was not determined that it did not mimic emergency service lighting.

Ms. Kratter asked if the ordinance stated that white was the preferred color due to safety, would the County still be subject to challenges, if the applicant brought forth information that showed that other colors deemed to be safer.

Ms. King stated that it might be better to include various options in lighting, rather than just one color. For example, two colors might be listed as readable for LED signs.

Ms. Kratter asked if the County would still be subject to challenges, if two colors were stated, with the rationale that these two colors were chosen arbitrarily and that there might be others that serve the same purpose.

Ms. King stated there is a potential for the County to be challenged.

Ms. Kratter asked if these signs were not allowed at all, that the issue is not there.

Ms. King stated yes.

Mr. Henderson asked for clarification as to how staff would interpret a stagnant red or white light that does not flash, and does not scroll, as to mimic emergency services lighting.

Ms. Brown stated the height of the monument signs are typically the same as the vehicles going by. She said it is not necessarily just the signage that is not scrolling. At nighttime, if there are red and white bulbs, and metallic material moving, there is greater possibility of reflection and flashing, than with alternative colors.

Mr. Krapf opened the public hearing.

Ms. Barbara Pfeiffer of 103 Links of Leith questioned the intensity issue. She felt that sometimes until the sign is actually in place, that one can tell if it may be too bright. She also asked who would be responsible for monitoring the intensity. She asked if the signs can be built so that they can only give off the required intensity, or can the intensity be changed at any time. Ms. Pfeiffer addressed the issue that some say the County needs to modernize. She felt that the character of the area would be compromised if these signs were allowed.

Mr. Krapf closed the public hearing.

Mr. Poole did not feel that a change was necessary to address one error with a sign in the County. He does not feel the ordinance was broken, and does not feel that this is the avenue to take to remedy the situation. Mr. Poole feels the County has been diligent in trying to protect community character corridors previously with backlit and channel lit signs. He does not want to compromise further community character corridors. He also mentioned that many business owners in the County have been diligent in working with staff to uphold the intent of community character corridors.

Mr. Krapf stated that ordinances will be brought to the Commission for change and review as part of the Comprehensive Plan update

Mr. Peck agreed with the fact that action should not be taken just because a mistake was made. He asked whether the Commission has to report something back to the Board of Supervisors. He asked if the Commission denies this change, does it still get presented to the Board of Supervisors.

Mr. Murphy answered that the Commission could refer the matter back to the Policy Committee if they felt it was warranted. The Commission could vote to approve or deny, it would still be presented to the Board of Supervisors.

Mr. Peck stated that if the Commission denies it, and it is close to their opinion, then that is fine. He suggested though, if the Commission felt otherwise, then maybe it should be referred back to the Policy Committee.

Ms. Kratter felt that this would be a mistake to change the ordinances with relation to the community character corridors. She does not see the County gaining anything with a variety of signs that would be allowed. She does not support the change to allow digital signs, and does not feel that one problem should warrant a change in the ordinance.

Mr. Billups does not want to change the ordinance unless it affects the health, safety and welfare of the community.

Mr. Krapf believes there is merit for the Policy Committee to review. He stated he felt that during the day, the sign in question was less obtrusive than some other signs in the area. He stated digital technology is more prevalent now, and feels that this should be discussed at the Policy Committee level.

Mr. Henderson stated that this ordinance only applies to gas pricing signs. He said that during the Policy Committee discussion, it was decided that it was important to limit colors to those that are deemed traditional and accepted within the community. He also stated it has been his experience that these signs are easier to change the prices. Mr. Henderson asked if this ordinance changes does not go through, how the County effectively allows an internally illuminated sign that would then have some kind of opaque dollar sign as required by federal law, the pricing of gas.

Ms. Brown stated that if the ordinance amendment is not approved, the County would be bound by the current ordinance requirements which in community character areas, signs need to be backlit channel lettered or externally illuminated.

Mr. Poole moved to deny the ordinance amendment.

Ms. Kratter seconded the motion.

Mr. Peck recommended that the amendment changes be sent back to the Policy Committee either to attempt to work out a compromise that the Commission would feel was workable or put together language which proposes no changes at all.

Mr. Fraley asked Mr. Murphy to comment.

Mr. Murphy stated that to propose no changes to the ordinance would essentially be a denial. He stated the Board of Supervisors has initiated a resolution that asks for the consideration of an ordinance in this particular area. He stated he would expect that the Board of Supervisors would like some kind of recommendation from the Commission.

Ms. Kratter asked Mr. Peck if he was suggesting that forwarding a different resolution that says that the initiating resolution was considered, and the Commission resolves not to go further. She asked if this was a more conservative approach so that the Board of Supervisors does not have an ordinance to approve even if the Commission does not approve.

Mr. Peck answered in essence yes, but if the Commission is stating that the ordinance change is flawed, then maybe the Policy Committee needs to rework the wording and rationale. He thought it was more beneficial to send something to the Board of Supervisors that the Commission agreed upon.

Ms. Kratter felt that the motion intended to accomplish the idea of stating that the Commission has reviewed the ordinance and does not recommend any changes, and do not want to consider digital signs in the community character corridors.

Mr. Krapf stated that there is a motion, and a second, and a suggestion to modify the motion to refer back to the Policy Committee.

Mr. Poole stated he wanted to keep the initial motion, which was to deny the proposed changes.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

C. ZO-0002-2009 Zoning Ordinance Amendment – Fee Addition Home Occupation

Ms. Brown stated that the proposed amendment will add a fee for applications for home occupations to recoup the costs of staff time dedicated to review and follow up inspections. This proposal is being made after a review of the surrounding localities' fee schedules and many jurisdictions have a fee for this process. The fee change represents an effort to satisfy pathways 1A and 1D of the Strategic Management Plan by evaluating service and delivery cost, and promoting revenue alternatives.

Mr. Henderson asked what types of inspections are being done.

Ms. Brown answered that for certain occupations, such as those that might have outdoor storage or employees on site, staff performs site inspections to make sure these situations do not occur. Staff also makes arrangements to meet with property owners to make sure they

understand the requirements.

Mr. Henderson asked if this fee will impact telecommuting.

Ms. Brown answered no, that typically the occupations that require the home inspections would be contractors that wish to have a home office, construction type work, mobile mechanics, etc.

Ms. Kratter asked if twenty five dollars compensates for staff time. She stated that other localities have higher fees, and considering the County's budget issues, then maybe a higher amount would be justified.

Ms. Brown answered that in providing information to the Financial Management Services (FMS) department; staff provided a range of the proposed fee. The fee was requested by FMS.

Ms. Kratter asked what the estimated revenue would be.

Ms. Brown answered that 720 applications were approved last year, so an estimate would be \$18,000.

Mr. Krapf felt it was important to realize that price level, that if the amount was too high, it might encourage more individuals not to apply for a home occupation, but engaging in the activity.

Ms. Brown stated there was sensitivity to that, along with the fact a majority of the home occupations are small businesses, and caution was made not to overly burden them. The home occupation application is generated when the business location provided for the business license application is a residential property.

Mr. Krapf opened the public hearing.

There being no comments, he closed the public hearing.

Mr. Henderson moved to approve the ordinance amendment.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

D. ZO-0003-2006 Outlet Mall Parking

Ms. Leanne Reidenbach stated the Board of Supervisors directed staff to amend the parking section of the Zoning Ordinance in order to clarify how non-retail space is considered when calculating off-street parking requirements for outlet malls. Currently, the parking requirement for outlet malls specifies five spaces per 1,000 square feet of building area, but does

not specify whether building square footage is based on gross or retail square footage. The parking requirements for other commercial use categories, such as planned shopping centers, specifies that building square footage is based off retail floor area. In past practice, staff has permitted deductions for non-retail space in outlet malls. Ms. Reidenbach proposed changes that would include a definition of “floor area, retail” to the definitions section of the ordinance, and clarification on what qualifies as an outlet mall and specifying that parking calculations are based on retail floor area in the highways, streets, parking, and loading section of the ordinance. Staff recommended that the Planning Commission recommend approval of these amendments to the Board of Supervisors.

Mr. Krapf opened the public hearing.

There being no comments, he closed the public hearing.

Mr. Poole moved to approve the ordinance amendment.

Ms. Kratter seconded the motion.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Fraley, Kratter, Billups, Peck, Krapf; NAY: Henderson.

E. SUP-0007-2009 Relocation of Tewning Road Convenience Center

Mr. Jason Purse stated that Mr. Larry Foster of the James City Service Authority (JCSA) has applied for a Special Use Permit to allow for the relocation of the existing Convenience Center on Tewning Road. The parcels subject to the relocation are a combined 12.33 acres and are zoned PL, Public Lands.

Currently, the Convenience Center is located at 105 Tewning Road. The Center consists of refuse containers for the disposal of materials such as newspaper, cardboard, glass, and aluminum, as well as waste motor oil, antifreeze, and kitchen grease. The relocated Convenience Center will continue to collect the same products. Because of future expansion potential of this parcel for a JCSA building, the Convenience Center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the Convenience Center; it merely provides additional flexibility for future JCSA needs.

Mr. Purse stated conditions have been placed on this SUP that require the BMP design to address potential runoff contaminants from the Convenience Center, as well as one that ensures design of the BMP meets the requirements of the approved New Town storm water master plan, which references this existing basin. The design of this BMP was anticipated to support acreage from that section and the Environmental Division has requested that its design continue to support that additional acreage. Staff believes that these conditions will help to protect overall environmental quality of the area.

Mr. Purse stated this parcel is designated Federal, State, and County Land on the 2003



Comprehensive Plan Land Use Map. The relocated Convenience Center will continue to function as a County operation, and therefore continues to meet these standards. Overall, staff believes that this application, as proposed, is in general compliance with the Comprehensive Plan. Additionally, with the advantage of the new conditions, staff believes that the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Planning Commission recommend approval of the special use permit application, with the attached conditions, to the Board of Supervisors.

Mr. Henderson asked if staff has identified adjacent property owners, specifically the parcel to the left of the subject parcel.

Mr. Purse stated the parcel on the left is owner by JCSA.

Mr. Henderson asked who the owner was across the street.

Mr. Purse stated he did not know.

Mr. Henderson stated his concern that if the property owner from across the street was not a County agency, they may disagree with the statement that the impacts are not greater in the relocated circumstance than they are in the original circumstance. He asked if this property owner was notified of the application.

Mr. Purse stated the owner was notified by mail and there is also a red sign posted in the area. He stated the owners of record are Mark Berry and Martha Kelly Berry. He stated that staff did not receive any communication from them.

Mr. Poole asked if the applicant was in agreement with the nine conditions attached to the application.

Mr. Purse stated yes.

Ms. Kratter asked what the time frame was for completion of the expansion.

Mr. Purse stated the JCSA is anticipating a building expansion on the parcel and in the general location of where the Convenience Center is currently.

Ms. Kratter asked if the plan was to begin construction immediately or to give flexibility to accomplish the expansion over a period of time.

Mr. Krapf opened the public hearing.

Mr. Foster, General Manager of the JCSA, answered that they are in the process of designing the building currently and plan to construct a new operations building to replace the existing building within the next year. He stated the intent would be to start construction within the next twelve months.

Mr. Fraley stated he appreciated the condition that addresses tree clearing. He stated the County should set a good example in this area. He would hope in the future that it would move beyond “shall be limited to the minimum necessary to accommodate” and state “to the minimum for what use that is meant.” He would encourage the JCSA to utilize pre-construction meetings.

Mr. Foster stated they could accommodate that request.

There being no further comments, the public hearing was closed.

Mr. Henderson moved to approve the application.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

F. SUP-0006-2009 Sale and Repair of Lawn Equipment

Mr. Jose Ribeiro stated that Mr. Nick Cianelli, with the assistance of Ms. Carla Brittle, Business Facilitator for James City County, has applied for a special use permit to allow the sale and repair of lawn equipment and sale of plant and garden supplies on the property located at 8231 Richmond Road. The 2.11 acre property is zoned A-1, General Agriculture and is designated by the 2003 Comprehensive Plan as General Industry. The applicant proposes to remove the existing dilapidated residential structure and accessory buildings from the property, and redevelop the eastern end of the parcel with a single-story 7,500 square foot structure, 2,100 square foot of outdoor lawn equipment display area and 19 parking spaces. The site fronts on Richmond Road, which is designated by the 2003 Comprehensive Plan as a Community Character Road. Staff notes that a 50 foot landscape buffer along the right-of-way is being proposed by this request.

Mr. Ribeiro stated that all reviewing agencies have recommended approval of this SUP request with comments to be addressed during the site plan review process, should this request be approved. Staff finds this development, as currently proposed, to be generally consistent with surrounding land use, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of the SUP application for this project with the attached conditions. Mr. Ribeiro stated that should this application be approved, that the applicant is considering applying for a sidewalk waiver along the front of his property. This request would be considered by the DRC during the site plan review for this project.

Mr. Billups asked what the length and width would be for the sidewalk waiver.

Mr. Ribeiro answered that sidewalks must be constructed according the VDOT's standards. It is his understanding that the width needs to be five feet, which also complies with the Americans with Disabilities Act. He stated the length would be the entire front length of the property.

Mr. Krapf opened the public hearing.

Mr. Joseph Swanenburg, 3026 The Pointe Drive, stated he was representing an adjacent property owner. He stated he is a member of Lifepoint Christian Church, which purchased the property at the northern part of the parcel in the application. He stated he has been in regular contact with the applicant and that the church membership sees it as a great opportunity. Mr. Swanenburg stated the church has no objection and felt that he would be a very good neighbor.

Ms. Carla Brittle, James City County Business Facilitator, spoke on behalf of Mr. Nick Cianelli. She stated that he has had a similar business in York County for over twenty years and decided to relocate in James City County.

Mr. Krapf closed the public hearing.

Mr. Poole, recognizing the redevelopment potential for the property, moved to approve the application with the conditions listed in the staff report.

Ms. Kratter seconded the motion.

Mr. Krapf wanted to mention that 78% of the site would remain pervious cover with the application, which he believed to be exceptional.

Mr. Henderson asked about the use of an underground storage tank.

Mr. Cianelli stated he would not have an underground storage tank. He agreed to have something in the conditions stating that he has agreed to this.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

G. Z-0003-2008 / MP-0003-2008 The Candle Factory

Mr. Ribeiro stated that on January 7, 2009 the Planning Commission voted 4-2, with one member absent, to recommend approval of this application. However, staff was notified by the County Attorney's office that the applicant had notified them of a procedural error that occurred when the applicant turned in the rezoning application for this project. The signature of one of the original owners of the property, Mr. Jack Barnett, was missing from the application. Mr. Barnett is the owner of a 25-foot-wide access strip which runs north-south through the property. Mr. Ribeiro stated that to ensure that there would be no further procedural issues, staff was advised by the County's Attorney's office that the case needed to return to the Planning Commission prior to moving forward. At the March 10, 2009 meeting, the Board of Supervisors opened and closed the public hearing on the Candle Factory case and referred the case back to the Planning Commission for consideration.

Mr. Ribeiro stated this proposal had not changed much since its recommendation by the

Planning Commission on January 7, 2009. The pertinent modification pertained to a new proffer; proffer 21- *Right of Way Reservation*. This proffer was designed by the applicant to address comments made by the commission regarding connectivity with adjacent parcels. As highlighted in the staff report, staff finds that the proffer as written makes such connectivity difficult. As presented during the January 9, 2009 meeting, staff finds this proposal not acceptable and recommends that the Planning Commission recommend denial.

Ms. Kratter noted the overall negative impact on the economy if the proposed assisted living facility is not built. She also noted the report done by the Wessex Group, which proposed that there would be certain benefits to the County during the construction phase. Staff remarked that this may have been overstated. The Code Compliance and Environmental spending were not included with the figures. Ms. Kratter asked if staff knew what the diminution of the positive impact would be during that time period.

Mr. Ribeiro answered that he did not know. He stated he believed that building permits would be consistent with some of the positive aspects of this application. He did not know the exact numbers.

Mr. Henderson asked about the alignment of the twenty-five foot access strip and whether the master plan provided for its relocation. He stated that the road alignment shown as the proffered master plan differs from the twenty-five foot access strip that is reserved. He stated that without the property owner's compliance and agreement on the relocation, the proffered master plan would, in essence, be invalid.

Mr. Ribeiro deferred the question to the applicant.

Mr. Krapf opened the public hearing.

Mr. Vernon Geddy spoke on behalf of the applicant. He stated that the application presented is basically the same presented a few months ago. Mr. Geddy stated there is a contractual arrangement with Mr. Barnett, the owner of the twenty-five foot road access strip. He stated that as the public road is constructed, Mr. Barnett will release the easement. Mr. Geddy stated that the first phase for development, if approved, would be the townhouse section. It would be located on the left from the entrance road. Mr. Geddy stated that the applicant intends to begin construction immediately. He stated that it would also be the applicant's intentions to clear what is necessary to begin construction. He stated that the entire site would not be cleared but just the area necessary for construction. This would include the footprints of the buildings, roads, and utility connections that would be necessary.

Ms. Kratter asked what this developer could do, that other developers have not been able to do in the County. She was referring to the fact that land has been cleared in the County, but no construction has taken place.

Mr. Geddy answered that many developers have halted building due to financing and a number of other factors. He did not necessarily feel it was because a product would not sell in this market. He stated that the applicant has done research as to what will sell in this area and

they are willing to commit their capital in order to begin the project.

Ms. Kratter asked for clarification as to what phases would be cleared and when.

Mr. Geddy stated that the site plan would illustrate the exact limits of clearing for a particular phase, but it has not been prepared for this project yet. He did show the vegetation currently on site and the limits of clearing that are proposed. He pointed out the area where work would begin associated with that clearing and then construction.

Ms. Kratter asked how many units are in the initial area.

Mr. Geddy answered he was not sure if exact numbers have been determined yet.

Ms. Kratter stated that it is the assisted living portion of the project that makes this a positive benefit to the County from a monetary standpoint. She stated that it was her interpretation of the plan that the assisted living would be developed later, and her suggestion would be to have the assisted living portion developed first.

Mr. Geddy stated he could not commit to that section being one of the first to be developed. Currently, the plan is to have the assisted living section be part of the Crosswalk Community Church. He stated that it was in the plan to have the church build, own, and operate this section.

Ms. Kratter stated that it could potentially be an economic deficit for the County if that section is not built. She was inquiring as to what the applicant can do to mitigate this. Ms. Kratter made the point that the assisted living portion is a significant part of the application. If it changes, many aspects of the development would be affected, such as density. Ms. Kratter expressed concern should this section never be built. She understands that the applicant takes a risk, but she would like to do something to mitigate the risk for the County.

Mr. Geddy was not aware of anything that the applicant could do in this regard.

Ms. Kratter asked if there was any consideration given to increasing the school proffers since it was calculated using old standards, especially given the current economic conditions.

Mr. Geddy stated that the applicant has complied with the Board of Supervisor's adopted policies with regards to cash proffers that were in place at the time of the applications submittal. He envisions discussions taking place during the Board of Supervisor's meeting.

Ms. Kratter asked about the homeowner's associations (HOA) responsibility for the recreational areas and trails. She asked if there was a cost estimate associated with this.

Mr. Geddy stated that the numbers have been calculated but that he was just unsure what they were.

Ms. Kratter expressed her concern that because this would be a small HOA, it may be

difficult for them to maintain the recreational areas and trails. She wanted to protect the County in that they would not be responsible for items that the HOA may not be able to maintain.

Mr. Geddy stated that the applicant was aware of the importance of balance. He stated the applicant has done extensive research on these types of projects, and has one similar development in progress at West Point.

Ms. Kratter stated that the Commission is being asked to approve this application without knowing this study has been verified and deemed accurate.

Mr. Geddy stated the Homeowner's Association Act requires that a capital reserves study is done every five years in order to ensure sufficient funds area maintained to be able to provide maintenance for their facilities.

Ms. Kratter pointed out that while it is a homeowner's association issue, it becomes a community issue if it turns out that the maintenance cannot be performed. She asked about responsibility of maintenance, whereas if other sections are not built on a continual basis, will the maintenance of infrastructure that is already in place fall on those in sections already built.

Mr. Geddy stated that all the main streets are public and would fall under VDOT's responsibility. He stated homeowners would be responsible for their property and parking areas, etc.

Ms. Kratter expressed her concerns that in other areas of the County, the developer has turned areas over to the HOAs and even lent money to the HOA to handle maintenance until build out, and then build out is not reached. She is concerned with a small HOA being responsible for a very large expense.

Mr. Fraley asked if the applicant was willing to proffer the phased clearing and the purposes that the clearing would be done.

Mr. Geddy stated yes they would be willing to proffer this.

Mr. Henderson expressed his concern about the language concerning the right-of-way reservation to adjacent properties. He stated the practicality of getting a permit to construct the road would involve a court issue with the Resource Protected Area (RPA). He asked if the applicant would be securing a permit as a part of its development activities.

Mr. Geddy answered no, he did not believe so.

Mr. Rich Costello of AES Consulting Engineers stated that some permits would be required for the utilities. Permits from the Army Corps of Engineers may not be necessary. He sees a potential problem in obtaining these permits in that they have expiration dates.

Mr. Henderson stated that unless there was an agreement with the adjoining property owner to pursue it simultaneously and construct the access as part of the development of the site,

it would not make sense to pursue the permit. He asked if that is how the applicant would approach this.

Mr. Costello stated that only a certain number of units will be allowed per year.

Mr. Geddy stated that at this point the adjacent property is zoned A-1 and the applicant has attempted to design the connection at the narrowest point of the ravine. He was unsure of anything further proposed without knowing what would be developed on the adjacent property.

Mr. Henderson expressed his concern about this situation creating a right-of-way that may be relocated by an issue with the Army Corps of Engineers.

Mr. Geddy felt that this was the best the applicant could do at this time without knowledge of the adjacent property.

Mr. Henderson asked if the easement language provided some flexibility and whether the ability to cross the property owner's property would be noted.

Mr. Geddy stated yes.

Mr. Henderson did not want to create a circumstance where something is dedicated, but ultimately cannot be built.

Mr. Billups asked if the applicant was willing to abide by the conditions in the staff report, even though staff recommended denial.

Mr. Geddy stated that the basis of the denial was due to interpretation of the Comprehensive Plan, and not specific items that may have been suggested but that the applicant was not willing to do.

Mr. Billups asked about the interconnectivity standards, the road construction, and VDOT's involvement.

Mr. Geddy stated this plan will meet VDOT and the County's approval.

Mr. Billups asked about the timeline for the affordable housing units and the assisted living units. He asked if there was any flexibility in the timeline under which these sections were due to be constructed.

Mr. Geddy answered that it is possible.

Ms. Kratter expressed her concerns that this plan was being viewed in isolation without knowing the cumulative impact of what is planned for the future and the nature of those plans. She is concerned of the number of affordable homes and workforce housing units that are approved and yet to be built, given that the market has slowed and prices are decreasing. She stated it was difficult to determine the real public benefit without an ability to accurately assess

the need, especially since it appears that the project will not provide favorable benefits to the County during difficult economic times.

Mr. Geddy stated that the initial construction phase of the project is all favorable.

Ms. Kratter asked about the construction dollars generated in the initial phases, although it will dependent on how much of the materials and labor will utilize County resources.

Mr. Geddy answered that the owner, the site contractor, and the builder are based in the County.

Ms. Barbara Pfeiffer, 103 Links of Leith, questioned the number of units that are built in the different phases. She expressed her concerns of clearing the land, either in phases, or clear all in anticipation of building. She stated staff recommended denial of the application due to nonconformance with the Comprehensive Plan. Ms. Pfeiffer then questioned the need for a Comprehensive Plan if it were not followed.

Mr. Krapf closed the public hearing.

Mr. Murphy wanted to clarify the comment of funding for private streets. He stated there is a proffer provision that provides for seed money provided by the applicant for maintenance of all private streets.

Mr. Henderson mentioned that there is a land use application before the Steering Committee to change the land use designation. This change, if approved, would make the proposed development in compliance with the Comprehensive Plan. He stated that this change was brought forward by staff.

Mr. Poole mentioned that the revision to the Comprehensive Plan is not yet in place, and expressed his concerns about making a decision based on the fact that it may change in the future. He expressed his appreciation for the architectural designs and the applicant's interest in phased clearing. He did not, however, like the idea of leapfrogging of what he considered high density residential from Williamsburg, to Lightfoot, to Norge, to Toano, etc. Mr. Poole felt that this proposal continues this type of transformation of A-1 property into multi-family. He felt that the County should not continue to incrementally add residential units in addition to what has already been approved.

Ms. Kratter added her concern about the character of the County. She wanted to compliment the applicant on a very thoughtful plan that has some great environmental sensitivity. She stated overall, she did not feel that this was something that the County can risk from a financial standpoint.

Mr. Fraley mentioned that staff has allowed for work to be done in assessing cumulative impacts in the work management program. He stated some work has been done concerning this already. He stated the traffic study did and has included cumulative impacts over the last few years. Mr. Fraley stated that on principle he stands opposed to new residential development in



the County. He feels that there is a large inventory of homes currently existing. He feels that in this case, there are other considerations. Mr. Fraley stated that according to citizen input during the Comprehensive Plan update, citizens rated the availability of affordable housing as excellent or good by 23% of the respondents. It also showed the variety of housing options was rated excellent or good by 35% of respondents. Mr. Fraley stated these responses represent two of the three least positive ratings provided by the citizens. He stated the Virginia Tech survey showed the same questions decreasing in percentages as to being excellent or good from the survey conducted for the last Comprehensive Plan. He stated that the Community Participation Team determined housing as a topic of concern among the citizens that participated. Mr. Fraley stated the respondents wanted to see more mixed cost housing, more workforce and affordable housing, and have these types of housing integrated throughout the community. He stated he felt the benefits of the project were mixed cost housing, inclusion of affordable and workforce housing, unusual environmental protections, and adherence to the principles of open space design. These are all mentioned as public benefits in the current Comprehensive Plan. Mr. Fraley stated that these benefits will cost the County money. He felt the commercial component of the project has potential to make the project a positive benefit.

Mr. Krapf agreed with many of the comments from his fellow Commissioners. He stated the Comprehensive Plan is a guideline. He is very much against residential development until it is determined what is already planned, but felt that in this case, the positive benefits outweighed those concerns, such as the environmental protections, the quality of design, the low density, and the affordable and workforce housing proposed.

Mr. Billups expressed his concerns of approving an application that staff has recommended for denial. He would like to see the completion of the Comprehensive Plan update done before more residential developments are approved. He did not believe this application provided a public benefit to the County.

Mr. Poole moved to deny the application.

Ms. Kratter seconded the motion.

In a roll call vote the motion failed. (3-4) AYE: Poole, Kratter, Billups; NAY: Fraley, Henderson, Peck, Krapf.

Mr. Henderson moved to approve the application.

Mr. Fraley seconded the motion.

In a roll call vote the motion was approved. (4-3) AYE: Fraley, Henderson, Peck, Krapf; NAY: Poole, Kratter, Billups.

H. SUP-0024-2008 Windsor Meade Tower

Mr. Krapf stated the applicant had withdrawn the application.

There being no further public comments, the public hearing was closed.

8. PLANNING DIRECTOR'S REPORT

Mr. Murphy had no comments.

9. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Krapf reminded that the Board of Supervisors representative for April was Mr. Henderson.

Mr. Krapf stated that there will be presentations at the May 6, 2009 meeting on two projects: the Shaping our Shores plan and the Parks and Recreation Master Plan. The meeting will begin at 6:30 p.m.

Mr. Fraley asked how long the presentations might take.

Mr. Murphy answered that it should last approximately 20 minutes with a question and answer phase after the presentation.

Mr. Krapf mentioned that the Planning Division has a resource of materials, publications, and books in the County Complex. He also thanked staff for purchasing two books that he requested to be added to this library.

Ms. Kratter questioned whether the Commissioners would like the Policy Committee to consider two housekeeping rules, one regarding ex-parte communications and the other regarding conflict of interest provisions.

Mr. Poole expressed his desire to look at the conflict of interest provisions since the Planning Commission is an advisory board. He also expressed his concerns about Commissioners having political party affiliations. He was not sure how one would regulate ex-parte communications. Mr. Poole felt that as a public servant, he was open to all citizens and all comments.

Mr. Peck believed that the party affiliation is not the conflict; the issue is with raising money. He believed limits should be set. He stated that in general, this all started with the suggestion of reviewing the by-laws and the charters of the committees.

Mr. Krapf stated the by-laws review is still pending. He felt it would be beneficial for the Policy Committee to review the mentioned topics. He is concerned about timing and believes that it should occur in the fall if possible.

Mr. Fraley stated he would not be able to devote time to reviewing these issues. He recommended the Commissioners read the Code of Ethics that was signed. Then additional review may or may not be warranted.

Mr. Henderson stated he could not support anything that limits a person right to free speech, free association, or free expression. He does not feel that the Commission can restrict conversations or associations. He stated that the Commission makes recommendations concerning land use. Mr. Henderson stated the statutes of Virginia and the Constitution of Virginia define conflicts of interest. He stated these laws apply to public officials, appointed and elected. He does not see the need for any further restrictions.

Mr. Krapf pointed out that Ms. Kratter suggested discussing this issue, not necessarily changing anything.

Mr. Fraley stated that Ms. Kratter has sent out suggested language.

Mr. Peck thought it would be beneficial to have something in writing to give guidance.

Ms. Kratter stated that in the conflict of interest statement there is nothing that limits the freedom of association, free speech, or free expression. She stated the only limit would be the right of any Commissioners to participate in a decision if money was received or raised by the Commissioner.

Mr. Peck questioned whether the purpose of raising money would be important.

Mr. Krapf suggested that the Policy Committee take up this discussion.

It was the consensus of the Commission for the Policy Committee to address these topics after July.

Mr. Poole questioned the need for a public comment period in the beginning of the meeting. He stated that most of the comments that are heard during that time are not concerning items that the Commission focuses on. He felt that this comment period might be more appropriate for an elected body.

Mr. Henderson mentioned the Steering Committee that was taking place on Monday and that the topic of discussion was transportation with the traffic consultant, if any Commissioners had any interest in this area.

Mr. Fraley mentioned that the materials are posted on the website.

Ms. Kratter verified that the next Policy Committee would be on April 15, 2009 at 6:30 p.m.

10. ADJOURNMENT

Ms. Kratter moved that the meeting be adjourned.

Mr. Poole seconded the motion.

The meeting was adjourned at 10:05 p.m.

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Rich Krapf, Chairman

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Allen J. Murphy, Secretary

# Development Review Committee Actions Report

## April 29, 2009

**C-0017-2009 Villages at White Hall**

# Sarah Propst

The applicant was seeking to modify language in the White Hall Design Standards to all front walks to extend from the front steps to the sidewalk rather than to the driveway. According to Proffer 13, any amendments must be approved by the DRC.

**DRC Action:** By a vote of 3-1 the DRC voted to approve new language for the White Hall Design Standards. The new design guidelines will allow a walkway from the front door to either the sidewalk or the driveway and allows for a secondary walkway to detached garages at the homeowners' discretion.

**SP-0046-2008 Moss Creek Commerce Center Sidewalk Modification**

## Ellen Cook

This case was presented to the DRC because the applicant requested a sidewalk waiver for the development's frontage along Route 30, proposing instead to construct an eight-foot wide path. Section 24-35(c) of the Zoning Ordinance allows DRC approval of sidewalk modifications provided the request meets certain criteria.

**DRC Action:** The DRC voted unanimously to approve the sidewalk modification.

**SUP-0008-2009**      **CVS at Norge**

**Sarah Propst**

This case was presented per the applicant's request to obtain input on the architectural elevations prior to Planning Commission.

**DRC Action:** No action was required from the DRC.

## MEMORANDUM

DATE: May 6, 2009

TO: The Planning Commission

FROM: Jason Purse, Senior Planner

SUBJECT: ZO-0003-2009, Setback reductions, in B-1, General Business, and M-1, Limited Business/Industrial

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Staff has received a request to amend the Zoning Ordinance to allow for front setback reductions in the M-1, Limited Business/Industrial District, with approval of the Development Review Committee. Similar language currently exists in the B-1, General Business District, and allows for a reduction to 25 feet.

This request is coming forward at this time because certain M-1 parcels are located in Community Character Areas, where approved design guidelines suggest lessened front setbacks for business developments. Specifically, the Toano Community Character Area Design Guidelines recommends lessened setbacks for business uses in both the "Historic Toano" area and the "Transition Areas" in the Community Character Area. In order to further implementation efforts, it is important that the standards of these approved guidelines are achievable under the zoning ordinance. However, under the current ordinance language no reduction of front setbacks are permitted in M-1.

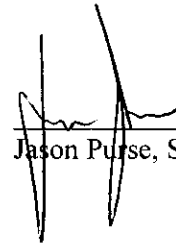
Having consistency between the B-1 and M-1 ordinances is important, and therefore recommends that consistent language be used for both sections. The criteria for setback reductions in B-1 are important, as they deal with restricting reductions if a roadway appears on the Six-Year Primary Road plans, etc., and staff believes it is important to include that language in the M-1 district as well. Furthermore, staff has included a new section to both districts that allow further reduction of setbacks based on those specifically approved design guidelines by the Board of Supervisors.

Please note that staff has restricted setback reductions in M-1 to "commercial" uses. Since there are commercial uses in the M-1 district, and the Toano guidelines specifically state that commercial uses (and not industrial uses) should have reduced setbacks, staff believes that this ordinance amendment will help to further the recommendations of the approved guidelines. While the B-1 district currently has reduction language, it does not allow for the minimum setbacks suggested by the Toano area study. The new language allows for reduction of setbacks to less than 25 feet in both districts, but only upon the DRC finding substantial compliance with approved design guidelines. Currently, the Toano Community Character Area is the only area in the County with approved design guidelines and therefore the only area that would be eligible for this additional reduction.

At the request of the Policy Committee, staff also changed Section 24-393 (1) (c), in the B-1 ordinance, to provide more clarity that the Development Standards in the Comprehensive Plan should be exceeded as a part of one of the criteria for receiving the reduction. Staff included that reworded language in the M-1 language as well.

Staff recommends the Planning Commission recommend approval of these ordinance amendments to the Board of Supervisors.

At their April 15, 2009 meeting the Policy Committee voted 5-0 to recommend approval of this Ordinance amendment to the Planning Commission.



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Jason Purse, Senior Planner

Attachments:

1. Ordinance amendments

Chapter 24. Zoning

Article V. Districts

Division 10. General Business District, B-1

**Sec. 24-393. Setback requirements.**

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

(1) Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered ~~extraordinary~~ site design which ~~better meets~~ *meets and exceeds* the Development Standards of the Comprehensive Plan.

*(2) In areas where the Board of Supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (1), the development review committee can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (1) above.*

DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

**Sec. 24-415. Setback requirements.**

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in



excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

*(c) Setbacks for commercial uses may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.*

*A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:*

*(1) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.*

*(2) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.*

*(3) The applicant has offered site design which meets and exceeds the Development Standards of the Comprehensive Plan.*

*(d) In areas where the Board of Supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (c), the development review committee can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (c) above.*

**SPECIAL USE PERMIT-0004-2009. Dee's Child Care**  
**Staff Report for the May 6, 2009, Planning Commission Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

**Building F Board Room; County Government Complex**

May 6, 2009 7:00 p.m.  
June 9, 2009 (Tentative) 7:00 p.m.

**SUMMARY FACTS**

Applicant: Ms. Darlene Ingram

Land Owner: Darlene and Keith Ingram

Proposal: To operate a child day care service (12 children) in a residential area.

Location: 156 Indian Circle

Tax Map/Parcel Nos.: 5920200069

Parcel Size: 0.597 acres

Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

This proposal provides a valuable service to the community, and because the service is operated from a single-family residence the scale of the operation will be compatible with the surrounding community. The proposal seeks only to expand an existing use which has been operating with complete licensure and without recorded complaints or problems. Staff recommends that the Planning Commission recommend approval of this application, with the attached conditions, to the Board of Supervisors.

Staff Contact: Jason Purse, Senior Planner

Phone: 253-6685

## **PROJECT DESCRIPTION**

Ms. Darlene Ingram has applied for a Special Use Permit (SUP) to allow for the operation of a children's day care facility in an existing single family detached house located at 156 Indian Circle. This property is zoned R-2, General Residential, which requires an SUP for the operation of a children's day care facility.

A day care service is currently operating from the residence for a maximum of 5 children. Child day care facilities of 5 children or less are permitted by-right as a home occupation. The hours of operation are from 6:00AM to 6:00PM, Monday through Friday. Ms. Ingram currently has a conditional license from the State Department of Social Services allowing her to operate a child day operation for 12 children if this SUP is approved.

There are no proposed expansions proposed for the residence; the only change would be in the number of children served.

Ms. Ingram's existing day care facility has been a valuable asset to the community and references from clients stating their support have been included for your reference. Furthermore, Ms. Ingram has shown excellent stewardship towards her operation by attending multiple trainings and certification programs for day care facilities around the County, and has obtained all of the necessary licenses to operate her day care facility.

The Planning Commission previously approved a policy for child day care centers located in the interior of residential neighborhoods. The policy recommends that three conditions be placed on the application: a three-year time limit in order to monitor the impacts of the day care center; no signage shall be permitted; and no additional exterior lighting shall be permitted. Staff has included these conditions as a part of this application, and a copy of the policy has also been provided for your reference.

## **PUBLIC IMPACTS**

### **Environmental Division**

**Staff Comments:** Environmental staff has reviewed the application and has indicated that this proposed SUP is approved by the Environmental Division with no comments or concerns. A Land Disturbing permit is not required.

### **Public Utilities**

**Staff Comments:** This project lies inside the Primary Service Area (PSA), and is served with public water by the James City Service Authority (JCSA). The JCSA has reviewed the application and has indicated that this proposed SUP is approved with no comments or concerns.

### **Transportation**

**VDOT Comments:** The Virginia Department of Transportation had no concerns with the proposed SUP. No traffic improvements were recommended or proposed by VDOT.

**Staff Comments:** Due to varying parental schedules, children will be picked-up and dropped off at varying times, thus helping to ease congestion in the morning and evening hours.

### **Virginia Department of Health (VDH)**

**Staff Comments:** This parcel is served by an onsite septic system. The VDH requested a septic system analysis from a professional engineer to ensure the adequacy of the system to serve the increased number of children and sufficient evidence was presented that the system could handle the expansion. The VDH did not recommend any additional conditions dealing with the septic system. The VDH is also responsible for monitoring food preparation and cleanliness standards at the day care facility. The VDH expressed no concerns with the operation of the facility, or with the Special Use Permit.

### **Virginia Department of Social Services (DSS)**

**Staff Comments:** The DSS is responsible for monitoring and licensing the day care facility. The DSS granted a license for the child day care serving five children, and has also issued a conditional license for 12 children should this SUP be approved. A copy of the current license for this day care facility is included as an attachment at the end of this staff report.

### **Code Compliance**

**Staff Comments:** Code Compliance noted that the proposed increase from 5 to a maximum of 12 children is permitted in Ms. Ingram's residence in accordance with the Virginia Construction Code. Code Compliance did not identify any other concerns with this SUP application.

### **Fire Department**

**Staff Comments:** The Fire Department requested that the number of children under the age of 2 ½ served by this operation be limited to five. Facilities that provide supervision and personal care on less than a 24-hour basis for more than five children 2 ½ years of age or less shall require additional safety improvements such as a fire alarm system, sprinkler system, and/or exit modifications. The applicant has agreed to include a condition that limits the number of children under the age of 2 ½ to five or less.

## **COMPREHENSIVE PLAN**

### **Land Use Map**

Land Use Designation	<i>Low Density Residential (Page 120-121): "Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan...Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments."</i> <b>Staff Comment:</b> The proposed child day care service will be located in a single-family residence and child care service is an accessory use to a residential area. Having a day care service in such close proximity to a residential area makes it more convenient, and the size, scale, and hours of operation should help mitigate the impact on adjacent land owners.
Goals, strategies and actions	<i>Strategy #1 (Page 138): Promote the use of land in a manner harmonious with other land uses and the environment.</i> <b>Staff Comment:</b> The proposed use has not adversely affected adjacent properties while serving five children. A day care facility provides a needed community service, and staff believes that expanding the maximum number of children to 12 will provide a valuable service to the community. Staff believes the proposed conditions will help mitigate the impacts of the expansion.

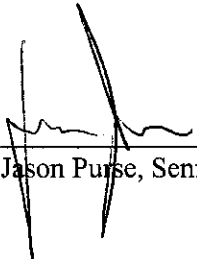
## **RECOMMENDATION**

This proposal provides a valuable service to the community, and because the service is operated from a single-family residence the scale of the operation will be compatible with the surrounding community. The proposal seeks only to expand an existing use which has been operating with complete licensure and without recorded complaints or problems. Staff recommends that the Planning Commission recommend approval of this application, with the attached conditions, to the Board of Supervisors.

1. **Day Care Capacity:** No more than twelve children shall be cared for at the child day care facility and no more than five of the twelve children shall be under the age of 2 ½.
2. **Hours of Operation:** Hours of operation shall be limited from 6:00AM to 6:00PM, Monday through Friday.
3. **Validity of Special Use Permit:** This Special Use Permit (SUP) shall be valid for a period of thirty-six months from the date of approval during which the day care owner shall

maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility. Should the applicant wish to re-apply, an application shall be submitted at least 90 days prior to expiration of this SUP.

4. **Signage:** No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. **Lighting:** No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. **Food Preparation:** No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, "commercial food preparation or laundry services" shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff.
7. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

  
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Jason Purse, Senior Planner

ATTACHMENTS:

1. Location Map
2. Document packet, including DSS license and letters of support
3. Copy of *Child Day Care Centers Located in the Interior of Residential Neighborhoods* policy adopted by the James City County Planning Commission's Policy Committee on June 22, 2001

**SPECIAL USE PERMIT CASE NO. SUP-0008-2009, CVS at Norge**  
**Staff Report for the May 6, 2009 Planning Commission Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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**PUBLIC HEARINGS**

**Building F Board Room; County Government Complex**

Planning Commission:

May 06, 2009

7:00 p.m.

Board of Supervisors:

June 9, 2009

7:00 p.m.

**SUMMARY FACTS**

**Applicant:**

Mr. David Todd of The Rebkee Company

**Land Owner:**

KTP Development, LLC

**Proposal:**

To construct a drive-thru pharmacy/retail store building of approximately 13,225 square feet. A Special Use Permit (SUP) is required in accordance with Section 24-11 of the Zoning Ordinance.

**Location:**

7521 Richmond Road

**Tax Map/Parcel:**

2321100001C

**Parcel Size:**

14.36 acres. The parcel will be subdivided to accommodate the proposed pharmacy/retail store on an area of approximately 2.09 acres.

**Existing Zoning:**

M-1, Limited Business/Industrial District

**Comprehensive Plan:**

Mixed Use

**Primary Service Area:**

Inside

**STAFF RECOMMENDATION**

The proposal is generally consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Further, the special use permit conditions associated with this case will mitigate any impact on adjacent properties and along Richmond Road. This proposal achieves significant objectives of the Norge Design Guidelines of the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of SUP-0008-2009 with the attached landscape modification request and special use permit conditions.

Staff Contact:

Sarah Propst, Planner

Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. David Todd of The Rebkee Company has applied on behalf of KTP Development, LLC for a special use permit to allow the construction of a drive-thru pharmacy/retail store (the “CVS”) on a property located at 7521 Richmond Road. The 14.36-acre property, formerly known as the site for the Williamsburg Soap and Candle Factory Company, will be subdivided to accommodate the proposed CVS on a 2.09 acre-parcel.

The Williamsburg Soap and Candle Factory Company was founded in 1964 by John Barnett. The commercial complex consisted of a restaurant, a manufacturing plant, and many smaller shops. The manufacturing plant became famous over the years for making quality candle and soap. However, in 2005, the plant closed its doors. Currently, only a small portion of the commercial complex is operating.

In 2008 a special use permit application was received from AES Consulting Engineers for the construction of a Walgreen’s drive through pharmacy/retail building (SUP-0016-2008).

The special use permit was approved by the Planning Commission in October 2008 but the project was withdrawn per the applicant’s request prior to being considered by the James City County Board of Supervisors.

Like the 2008 SUP application, this current request allows for the construction of a drive-through pharmacy/retail building (the CVS store). Once subdivided from the parent parcel, the property will be bounded on the east by the remaining Soap and Candle Factory parcel, to the north by Richmond Road and directly across Richmond Road by areas zoned B-1, General Business district. Property to the west is zoned Mixed Use (i.e. the Cross Walk Community Church parcel) and areas to the south are currently zoned A-1, General Agriculture. The property is located within the Norge Community Character Area and is therefore subject to the Norge Design Guidelines of the Comprehensive Plan. The site fronts on Richmond Road, which is designated by the 2003 Comprehensive Plan as a Community Character Corridor.

The entire Soap and Candle Factory commercial complex occupies a building area of approximately 183,300 square feet. The proposed development will replace three existing uses along the west end of the commercial complex, one vacant building, one restaurant (Candle Light Kitchen) and one public restroom.

The existing parking lot area will be modified to accommodate a 50 foot landscape buffer along Richmond Road and a 30 foot landscape buffer along Croaker Road Extended. There is an existing 5-foot wide sidewalk along the entire northern property line and parallel to Richmond Road.

## **PUBLIC IMPACTS**

### **Archaeology:**

**Staff Comment:** This project will be located on a previously disturbed site and is not located within an area identified as highly sensitive in the James City County archaeological assessment "Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia."

**Environmental:**

**Watershed:** Within Subwatershed 103 of the Yarmouth Creek Watershed

**Environmental Staff Comments:**

According to information provided by the applicant, the proposed 2.09 acre-site has approximately 0.98 acres of impervious coverage or 47% of the entire site. This number is expected to rise to 1.31 acres or 63% of the site upon development of the CVS project. To mitigate the proposed impacts the site design will include measures to improve stormwater quality and attenuate runoff rates leaving the site such as mechanical filtration units, sumped or bottomless inlets, dry detention, and/or a bioretention basin. These structures will be designed to ensure the quality of the stormwater leaving the site is equivalent to a site with 60% or less impervious cover.

Further, the master plan indicates a bioretention basin or dry extended detention basin located at the southern part of the property. The Environmental Division has indicated that a receiving drainage system may be required to provide proper outlet for the basin; connection to an offsite system may require offsite drainage easements.

**Planning Division Comments:** Staff has designed a special use condition (please refer to Condition No. # 10) requiring the applicant to demonstrate compliance with Section 23-9 (b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance-Impervious Coverage, prior to site plan approval. A special use condition has also been written (please refer to Condition No. #8) to ensure that all necessary drainage easements for the site are secured.

**Public Utilities:**

The site is located within the Primary Service Area (PSA) and will be served by public water and sewer.

**James City Service Authority (JCSA) comments:** Staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards. Water Conservation and Irrigation standards are part of the SUP conditions for this proposal (please refer to conditions Nos. 5 & 6).

**Transportation:**

**Access:**

This site will mainly be accessed through the signalized intersection of Richmond and Croaker Roads. An existing off-site right-in and right-out driveway at the Candle Factory Commercial Complex Parcel located approximately 560 feet east of the Richmond and



Croaker Roads intersection will serve as a secondary access to the site (please refer to condition No. # 14). The two existing access points on Croaker Road will be closed as part of this development and will be relocated to one full movement access point located approximately 400 feet south of the Richmond Road and Croaker Road intersections, and aligned across from the existing Crosswalk church entrance west of the Croaker Road.

Traffic Counts:

**2007 Traffic Counts:** From Croaker Road (Route 607) to Lightfoot Road (Route 646), 21,892 average daily trips.

**2026 Volume Projected:** From Croaker Road (Route 607) to Centerville Road – 33,500 average daily trips is projected. This segment of Richmond Road is listed on the “watch” category in the Comprehensive Plan.

Traffic impact Assessment (TIA):

According to the TIA, this development is expected to generate 933 daily new trips onto the local roadway network, including 29 in the a.m. peak hour and 111 in the p.m. peak hour.

The Level of Service for the intersection of Richmond and Croaker Roads is currently at level B for a.m. and C for p.m. peak hours. At the same intersection, the Level of Service is projected to decline to Level C for a.m. peak hours and Level D for p.m. peak hours for the 2015 “No-Build” scenario. Levels of Service are projected to be maintained at Level C for both a.m. and p.m. peak hours for the 2015 “Build-Out” scenario, with planned improvements.

Study Recommendations:

The TIA created by Kimley-Horn assumes that the Candle Factory Development will be approved and proffered improvements will be in place. Below are the recommendations for road improvements as identified by the Traffic Impact Analysis for CVS:

❖ **Intersection of Route 60 and the Candle Factory Parcel Entrance:**

- An eastbound right-turn full-width storage taper (100 foot storage/200 foot taper is recommended to serve the existing shared right-in/right-out entrance on Richmond Road.

**Virginia Department of Transportation (VDOT) comments:**

The Williamsburg VDOT Residency has reviewed the materials received with the SUP application. The Residency concurs with the trip generation, trip assignments and distributions and with the turn lane analysis for CVS. In addition to the road improvement recommended by the TIA, VDOT recommends the following improvements at the intersection of Richmond Road (Route 60) and Croaker Road (Route 607):

- (i) Extend the existing eastbound Route 60 left-turn lane to include 200 feet of storage and a 200 foot taper to address the existing deficiency.
- (ii) Extend the eastbound Route 60 right-turn lane to include a minimum 200

foot taper to accommodate site traffic. The design should include bicycle accommodations.

**Planning Division Comments:**

Staff concurs with VDOT's findings. Staff notes that the additional road improvements recommended by VDOT do not take into consideration road improvements proffered by Candle Factory. Given the uncertainty of approval of the rezoning case for Candle Factory staff has designed road improvement conditions (please refer to Condition No. 13) which addresses VDOT's comments.

*Vehicle and Pedestrian Connectivity with Adjacent Properties:*

Pedestrian access to and from the site will be facilitated by the proposal to construct a eight foot wide, shared use path along the entire length of the northwestern property line (please refer to Condition No. 16). Once constructed, the path will provide pedestrian connectivity with the proposed mixed-use development to the south of the property (The Candle Factory development) by connecting to a proposed eight foot wide shared use path proffered as part of the Candle Factory Mixed Use project development. Further, a 5 foot wide concrete sidewalk along the northern and southern perimeter of the proposed CVS building and a 5 foot wide concrete sidewalk placed perpendicularly from the property line connecting with the existing sidewalk along Route 60 are proposed.

**COMPREHENSIVE PLAN**

**Land Use Map**

General	<i>Mixed Use-page 124:</i> Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes.  <b>Staff Comment:</b> Staff finds the proposed commercial development to be in keeping with the intent and land use recommendations for mixed use areas located at or near major transportation corridors, as indicated by the Land Use Section of the 2003 Comprehensive Plan.
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**Environment**

Yarmouth Creek Watershed Management	<i>Description-Page 47:</i> Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin in James City County. The Creek drains into the Chickahominy River, which in turn discharges into James River.
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Plan Area	<b>Staff Comment:</b> Because of its location, this property is subject to Special Stormwater Criteria (SSC) established for developments located within the Yarmouth Creek Watershed Area.
Goals, Strategies and Actions	<p><i>Action # 5-Page 66:</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p> <p><b>Staff Comment:</b> According to information provided by the applicant, the following methods will be considered for implementation and compliance with the requirements set forth by Special Stormwater Criteria (SSC) for the Yarmouth Creek Watershed Management Plan Area: (i) a bioretention pond, (ii) manufactured BMP systems, and (iii) grass swales. Staff is encouraged by the proposed use of such Low Impact Designs (LIDs) methods on the property. Staff notes that such methods are being used as means to comply with the Special Stormwater Criteria (SSC).</p>

### Transportation:

Richmond Road	<p><i>Description-Page 77:</i> The Hampton Roads Metropolitan Planning Organization (MPO) traffic model assumes that Interstate 64 (I-64) is going to be improved to a six-lane facility. Funding is not currently available, however, nor is it likely to be available in the near to mid-range future. If I-64 does not get widened, Richmond Road will absorb a significant amount of local traffic as I-64 becomes increasingly congested. Even with the assumption of widening I-64, traffic volumes are expected to increase from an average of 24,000 vehicle trips per day to an average of 31,000 to 33,500 vehicle trips per day in 2026 on its most heavily traveled sections.</p> <p><b>Staff Comment:</b> According to the Traffic Engineer's traffic analysis conclusions and with VDOT's concurrence, the traffic generated by this proposal will not adversely impact the local roadway network.</p>
Goals, Strategies and Actions	<p>Strategies # 5-Page 80: Support the provision of sidewalks and bikeways in appropriate areas.</p> <p>Action # 9-Page 82: Include bikeways and/or pedestrians facilities within major developments and elsewhere in the County, especially connecting residential and non-residential areas.</p> <p>Action # 14-Page 82: Encourage pedestrian circulation by providing safe, well-lit, and clearly marked crosswalks</p>

	<p><b>Staff Comment:</b> According to the James City County, Williamsburg, and York County Regional Bikeway Map this Section of Route 60 should include a shoulder bike lane. The applicant has agreed to provide accommodations for a bicycle lane to meet VDOT standards along the frontage of the property adjacent to Route 60 (please refer to Condition No. 15). In order to facilitate internal pedestrian access and connectivity with adjacent parcels, the applicant will provide an eight-foot shared use path along the entire northwestern side of the property (please refer to Condition No. 16). Further, crosswalks located within the parking lot area are provided in order to encourage a safe interaction between pedestrians and motor vehicles at the site.</p>
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### Community Character Corridor (CCC):

Suburban and Urban CCC	<p><i>Description-Page 84:</i> A suburban or urban CCC is characterized as an area that has moderate to high traffic volumes, moderate to high levels of existing or planned commercial or moderate-density residential uses, and may contain some wooded buffer along roads. The predominant visual character of these CCCs should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.</p> <p>Development in urban and suburban CCCs should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general, and an emphasis on innovative design solutions.</p>
	<p><b>Staff Comment:</b> Staff notes that the applicant proposes to increase the width of the existing buffer fronting the property and along Richmond Road from existing 15 feet to 50 feet (please refer to Condition No. 8) by deleting an existing parking lot area.</p>

### Community Character Area (CCA)

Norge Area	<p><i>Description-Page 86:</i> Norge has been significantly impacted by recent commercial development along Richmond Road. While Norge continues to have a unique, very identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts, the early 20<sup>th</sup> century ‘village’ character of its business and residential areas along Richmond Road has been significantly impacted by infill automobile-oriented development.</p>
	<p><b>Staff Comment:</b> Staff notes that enhanced and increased landscaping along Richmond and Croaker Road Extended are proposed. The applicant has provided architectural elevations (please refer to attachment No. 6) for the proposed building. Staff has written a SUP condition ensuring the final architecture of the building will be similar to the architectural</p>

	elevations presented during the SUP request (please refer to Condition No. 2). Staff further discusses the architecture of the proposed building in a later section in this report.
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### **Staff Comment:**

Overall, staff believes that this proposal meets the zoning and Comprehensive Plan requirements for this area in Norge. Staff is particularly sensitive to promoting a balance between two important elements concerning land development in Norge, the economic benefits for the area (i.e. generation of employment and revenues, expansion of services and amenities, etc) and the desire to preserve the “village style” character of Norge.

The Comprehensive Plan (page 86) outlines very specific design standards intended to guide future development and redevelopment in the Norge area. Staff finds that the applicant has addressed some of the Norge design guidelines primarily by providing measures to (i) screen parking areas from adjacent right-of-way and properties; (ii) design new landscape areas which complement and enhance the proposed building and site design, and (iii) provide pedestrian and bicycle circulation through the provision of crosswalks, sidewalks, a shared use path, and a bike lane.

Staff further notes that, according to the Norge Design Guidelines, design elements such as the architecture, scale, materials, spacing, and colors for buildings should complement the historic character of the area. On April 14, 2009, the Development Review Committee (DRC) met to discuss the architectural elevations proposed for the CVS store. The Committee offered the following comments to be considered by the applicant:

- Preference for a peaked roof to a flat roof,
- Fewer plain walls would make the building feel more pedestrian scale,
- The architecture, exterior materials, and color scheme of the CVS should fit with the character of surrounding development,
- A covered entry would be a positive design feature.

The new elevations address several of the comments of the DRC. The roofline has some peaks. The windows appear to be lower to the ground which gives the building a more pedestrian scale feel. White siding has been incorporated into the design, this material is more fitting to the surrounding development.

### **Request for Landscape Modification:**

Section 24-99 (c)(1) of the Zoning Ordinance states that “A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width.” Staff notes that the area to be subdivided from the parent parcel (approximately 2.09 acres) will establish a new property line adjacent to the portion of the existing Candle Factory building not slated for demolition. To prevent further demolition and to comply with the setback requirements for the existing and proposed buildings, a 15-foot side yard landscaped area is not feasible along the eastern perimeter of the property. The applicant has submitted a request to modify the landscape requirements for the eastern side yard of the property by transferring

landscape materials from the eastern side yard of the property to the area along the southern (rear yard) part of the parcel (please refer to attachment No. 5).

Section 24-88 of the Zoning Ordinance states that “the commission or planning director may modify, permit substitution for any requirement of this section, or permit transfer of required landscaping on a site upon finding that a set of criteria are met. These criteria include:

- No overall reduction in total amount of landscaped area or landscaping effects;
- Satisfies the intent of the landscape requirements;
- Will not have an adverse impact on adjacent properties or the character of the area.

Staff has reviewed the request for landscape modification for this project and found it to meet the criteria listed in the ordinance. Staff recommends that the Planning Commission approve the request for landscape modification concurrent with their recommendation for the overall project.

#### **RECOMMENDATION:**

Staff finds the proposal to be generally consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Further, staff believes that the special use permit conditions associated with this case will mitigate any impact on adjacent properties and along Richmond Road. Staff believes that this proposal achieves significant objectives in the Norge Design Guidelines of the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of SUP-0008-2009 with the attached landscape modification request and special use permit conditions:

**1. Master Plan:** This Special Use Permit (the “SUP”) shall be valid for the construction of an approximately 13,225 square feet, 1-story high drive-through pharmacy/retail store building (the “CVS” store) on the property located at 7521 Richmond Road and further identified as JCC Tax Parcel Number 2321100001C (the “Property”). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled “JCC-SUP-0008-2009”, prepared by Kimley-Horn and Associates dated stamped April 27, 2009 (the “Master Plan”) with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

**2. Architectural Review:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the final building elevations and architectural design for the CVS. Such building shall be reasonably consistent, as determined by the Planning Director or his designee, with the architectural elevations titled “CVS James City County, VA” submitted with this special use permit application and prepared by The Rebkee Company, date stamped April 27, 2009.

**3. Free-standing Sign:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the design and location of the ground-mounted sign for the Property for consistency with the Norge Community Character Area as described in the James City County Comprehensive Plan.

**4. Dumpsters/HVAC Units:** All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Planning Director, or his designee, prior to final site plan approval.

**5. Water Conservation:** The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

**6. Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems, including rain tanks, which can be used to collect stormwater for irrigation use for the entire site. Only surface water collected from surface water impoundments (the "Impoundments") may be used for irrigating the site.

**7. Private Pump Station Maintenance Agreement:** A private pump station maintenance agreement shall be submitted to and approved by the James City Service Authority prior to final site plan approval. The agreement shall address the maintenance of the proposed pump station and guarantee access to all parcels served by the pump station.

**8. BMP Discharge:** Overflows from any proposed BMP(s) shall discharge to an adequate channel in accordance with State Minimum Standard #19 and shall not be conveyed through any of the adjacent parcels without an offsite drainage easement. All associated easements shall be of an appropriate width to permit access for maintenance of the channel and any associated appurtenances such as outlet protection, flow control devices, channel linings, etc. Said easement shall be in place prior to the issuance of a Land Disturbing Permit.

**9. Landscape Plan:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve a landscape plan for this project. The landscape plan shall meet all applicable zoning ordinance requirements and shall include at a minimum: (i) enhanced landscaping within the northern fifty-foot landscape buffer along Richmond Road, (ii) enhanced landscaping within the western thirty-foot landscape buffer along Croaker Road, and (iii) enhanced landscaping along the southern property line. Enhanced landscaping is hereby defined as 125 percent of the size requirements of the James City County Landscape Ordinance.

**10. Impervious Coverage:** Prior to final site plan approval, the applicant must demonstrate compliance with the provisions of Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance. Demonstration of equivalent water quality will be through compliance with guidelines established by the Environmental Director.

**11. Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director, or his designee, prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.

**12. Internal Traffic Signage Plan:** The applicant shall include along with the materials submitted as part of the site plan review process for this project, an internal signage plan indicating the location of internal traffic signs and the orientation of vehicular flow within the Property. The internal signage plan shall be reviewed and approved by the Planning Director, or his designee, concurrently with the site plan submission for this project.

**13. Roadway Improvements:** Prior to issuance of any Certificate of Occupancy for the Property, the road improvements listed below shall be provided at the following intersections:

a. At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):

- (i) The existing eastbound Richmond Road left turn lane shall be extended to provide a 200 feet full width lane with a 200 feet taper;
- (ii) A right turn lane on Richmond Road eastbound with a minimum of 200 feet taper must be provided.

b. At the intersection of Richmond Road (U.S Route 60) and the Candle Factory Center Entrance:

- (i) A 200 feet right turn lane with a 200 feet taper on eastbound Richmond Road shall be provided at this entrance.

**14. Shared Access Easement:** Prior to issuance of any certificate of occupancy for the Property, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easements have been obtained and recorded, as applicable, allowing vehicular access to the Property from the existing entrances on Richmond Road (U.S. Route 60). This includes those entrances currently serving the parcel located at 7521



Richmond Road (U.S. Route 60), and the existing entrance located across from Croaker Road (State Route 607).

**15. Bike Lane:** Prior to issuance of any certificate of occupancy for the Property, a VDOT standard shoulder bike lane along the front of the Property adjacent to Richmond Road (U.S. Route 60) shall be provided. This bike lane shall be depicted in the site plan for the Property

**16. Shared Use Path:** Should the construction of the proposed CVS building start in the property prior to construction of any building at adjacent parcels located at 7551 and 7567 Richmond Road, the Rebkee Company, developers of the proposed CVS store shall provide and construct along the length of the northwestern property line a portion of the eight-foot-wide, concrete or asphalt shared use path referenced by the Master Plan titled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC." Construction shall be hereby defined as obtaining permits for building construction and installation of footings and foundations.

**17. Commencement of Use:** Use of the Property as described in this SUP shall commence within (36) months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business with regular business hours and/or obtaining permits for building construction and installation of footings and foundations.

**18. Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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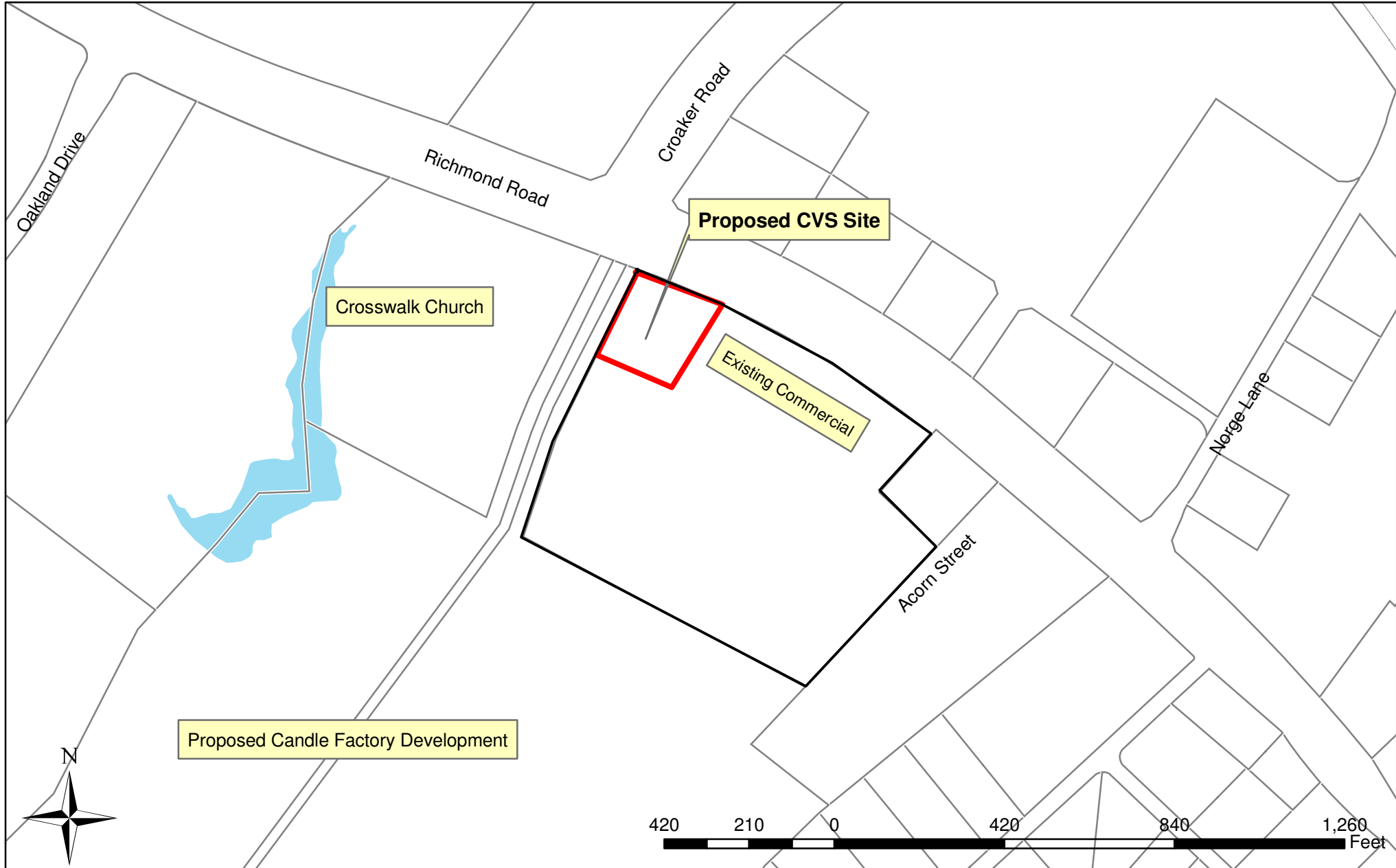
Sarah Propst, Planner

**ATTACHMENTS:**

1. Location Map
2. Master Plan (Under Separate Cover)
3. Landscape Plan (Under Separate Cover)
4. Community Impact Statement (CIS)
5. Traffic Impact Analysis (TIA)
6. Landscape Modification Request
7. Architectural Elevations

# JCC-SUP-0008-2009

## CVS at Norge



**SPECIAL USE PERMIT-0010-2009. Michael J. Hipple Contractor's Office  
Staff Report for the May 6, 2009, Planning Commission Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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**PUBLIC HEARINGS**

**Building F Board Room; County Government Complex**

Planning Commission: May 6, 2009 6:30 p.m.

Board of Supervisors: May 26, 2009 (Tentative)

**SUMMARY FACTS**

Applicant: Mr. Michael J. Hipple

Land Owner: Mr. Michael J. Hipple

Proposal: To allow for the continued operation of a contractor's office and shed, with associated parking area, and two rental residential units. Contractors' warehouses, sheds and offices are specially permitted uses in the A-1, General Agricultural zoning district.

Location: 7426, 7424, and 7428 Richmond Road (Route 60)

Tax Map Parcel Number: 2320200003, 2320200003A, and 2320200002, respectively

Parcel Size: 0.215 acres, 0.239 acres, and 0.241 acres respectively; (0.695 acres total)

Zoning: A-1, General Agricultural

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

This proposal is generally consistent with the Comprehensive Plan Land Use Map designation for the subject parcel, and is generally compatible with surrounding land uses and zoning. Based on its analysis, staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors with the Special Use Permit conditions listed at the end of this staff report.

Staff Contact: David W. German

Phone: 253-6685

**PROJECT DESCRIPTION**

Mr. Michael J. Hipple has applied for a Special Use Permit (SUP) to allow for the continued operation of a contractor's office and storage shed, with an associated parking area, on the subject lots, located at 7426, 7424, and 7428 Richmond Road (Route 60). The subject property is zoned A-1 (General Agriculture), and is designated Low Density Residential on the James City County 2003 Comprehensive Plan Map.

There are three lots included in this application, which are collectively listed at 0.695 acres in the County's Real Estate Assessment Records. Two of the lots have structures built upon them. The first of these, 7424 Richmond Road, abuts the road right-of-way, and contains a two-story brick residence, approximately 2,000 square feet in size. The second lot, 7426 Richmond Road, contains a one-story aluminum-sided residence of approximately 750 square feet in size, and a garage building of approximately 1,600 square feet in size. The

third lot, 7428 Richmond Road, contains no buildings, and is predominantly a grassy area used for the parking of vehicles and small work trailers. The three lots are generally level, and contain no RPA or riparian areas. There are large mature trees along the rear (northeastern) boundary of the 7428 and 7426 lots, located on the adjacent Bradshaw property. Mature trees are also located along the northwestern side of the 7428 lot, which effectively screen it from adjacent properties to the northwest. Wooden privacy fences at the front boundary of the 7426 and 7428 lots screen these lots from the 7424 lot and from Richmond Road. There is also a wooden privacy fence along the southeastern side of the 7424 lot and the 7426 lot, as well as the northeastern side of the 7426 lot.

The garage building (approximately 1,600 square feet in size) on the 7426 lot contains a small office space accessed by a pedestrian door, and two garage bays to either side of the office space, which are each accessed by a roll-up vehicular door. The applicant proposes to use this structure as the contractor's office and shed. The applicant further proposes to use the two residential houses on the 7424 and 7426 lots as rental living units that would typically be rented to workers hired by the contractor. The two houses would be used for residential purposes only; no office, storage, or other business uses would be housed in them. The 7428 lot would continue to be used only for the parking of work vehicles, as needed. The applicant is proposing no outdoor storage of materials, and any outdoor storage of ladders, tools, or vehicles will be kept behind and screened by the privacy fences. No maintenance of equipment or vehicles will take place outside. The application proposes no additional buildings or structures, or the removal of any existing vegetation.

Currently, a large portion of all three lots is covered in densely packed gravel. The applicant has agreed to substantially reduce this impervious cover, and to replace it with grass, mulch, or other pervious landscaping materials. Additionally, the applicant has agreed to plant trees and landscaping in front of the wooden fence that separates the 7424 lot from the 7426 lot to further screen the lots and to improve the appearance of the contractor's office from Richmond Road.

Mr. Hipple is intending to sell the three properties, contingent upon approval of this Special Use Permit application, to Buhl Electric Company, Inc. Mr. Hipple has discussed the conditions of the SUP with this intended buyer, and all parties are in agreement with the terms of the conditions.

### **Environmental**

- **Watershed:** York River Watershed

**Staff Comments:** The Environmental Division staff has reviewed the application and concurs with the effort to decrease the impervious coverage that currently exists on the three subject lots. The Environmental Division notes that a formal site plan, to be submitted if this SUP is approved, will ensure that proper buffers, E&S control measures, and stormwater management features are utilized on the site. Staff further notes that proposed Condition #8, which works to reduce the impervious surface of the project site, will significantly improve the site's stormwater handling characteristics.

### **Public Utilities**

- This site is currently connected to the public water and sewer utilities of the James City Service Authority.

**Staff Comments:** As the site is already connected to JCSA's infrastructure, and is already in-use as a contractor's warehouse and two residential units, no additional impact would be expected with the approval of this SUP. Staff further notes that proposed Condition #5, which addresses water conservation, will help to minimize any impact to the potable water supply.

### **Transportation**

- **Road Improvements:** This project proposes fewer than 100 vehicle trips per day, and does not require a traffic study or specific road improvements.

**VDOT Comments:** VDOT staff has reviewed the application and has no objection to the proposed project. VDOT would typically require the construction of a commercial entrance for this type of application, but was

willing to waive this requirement with the addition of a condition of the SUP prohibiting heavy truck traffic into and out of the site, (proposed Condition #9).

**Staff Comments:** The proposal should have minimal traffic impacts, due to the low number of trips-per-day that this use currently (and potentially) generates. Most of the traffic coming to and leaving the site will be at off-peak hours (at the very early part of the morning rush hour, and before the evening rush hour). The recommended Conditions 10 and 11 help to limit the traffic impact of the development by establishing when trips to and from the site will be made (hours of operation), and by directly limiting the number of vehicles parked on the site. While hours of operation ending at 5:00PM might suggest increased traffic being added to the evening rush hour, the typical contractor’s day ends in the 3:00 to 4:00PM timeframe.

## **COMPREHENSIVE PLAN**

### **Land Use Map**

Land Use Designation	<p><b>Low Density Residential (Pages 120-121):</b> “Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan...Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments.”</p>
	<p><b>Staff Comment:</b> The contractor’s warehouse represents a very limited commercial establishment that mimics the scale and intensity of the surrounding area. Further, the use, as currently configured, is in keeping with the Norge and Toano Community Character Area guidelines (pages 86-87). Examples of this include: 1) By maintaining the long-standing brick residence on the 7424 lot abutting Richmond Road, the architecture and building setbacks are kept in harmony with other Norge area buildings; 2) parking will be behind buildings or screened with wooden privacy fences; 3) A mix of uses (residential and commercial) is being fostered with the current layout of the site.</p>
Goals, strategies and actions	<p><b>Strategy #1 (Page 138):</b> Promote the use of land in a manner harmonious with other land uses and the environment.</p>
	<p><b>Staff Comment:</b> The proposed use has been in place for a long period of time, and has demonstrated a harmonious existence with surrounding properties and land uses. This use should not adversely affect adjacent properties with undue sound or light pollution, vibration, dust or other nuisances, and should result in a lesser impact to the environment than currently represented by the existing configuration due to the planned reduction in impervious area.</p>

## **RECOMMENDATION**

This proposal is generally consistent with the Comprehensive Plan Land Use Map designation for the subject parcel, and is generally compatible with surrounding land uses and zoning. Staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors with the Special Use Permit conditions listed below:

- 1) **Permitted Use:** This Special Use Permit (“SUP”) shall be valid for the operation of a contractors’ office/shed (limited to the existing 1,600-square-foot garage/office building), with associated parking area, and two residential houses, (collectively, “the Project”). The Project shall be located at 7426, 7424, and 7428 Richmond Road, further identified as James City County Real Estate Tax Map #s 2320200003, 2320200003A, and 2320200002, respectively (the “Property”). Development of the site shall be generally in accordance with, and as depicted on, the drawing, entitled “Binding Master Plan for Michael J. Hipple, Builder Contracting Office,” prepared by LandTech Resources, Inc., and dated 15 April 2009, (hereafter referred to as “the Master Plan”) as determined by the Planning Director of James City County (“Planning Director”). The two houses shall remain on the Property as shown on the Master Plan, and be used only for residential purposes. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
- 2) **Lighting:** Any exterior lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall

completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height, as measured from the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

- 3) **Site Plan Approval:** A site plan shall be required for this project. Final approval of the site plan shall be obtained within eighteen (18) months of issuance of this SUP, or the SUP shall become void.
- 4) **Certificate of Occupancy:** A Permanent Certificate of Occupancy for the contractor's office/shed shall be obtained within thirty-six (36) months of issuance of this SUP, or the SUP shall become void.
- 5) **Water Conservation:** The applicant shall be responsible for developing and enforcing water conservation standards for the Property, to be submitted to and approved by the James City Service Authority (JCSA), prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
- 6) **Irrigation:** As part of the site plan, the applicant shall include provision of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments ("the Impoundments") may be used for irrigating common areas on the Property ("the Irrigation"). In no circumstances shall the James City Service Authority (JCSA) public water supply be used for irrigation.
- 7) **JCSA Utility Easements:** Prior to final site plan approval, all JCSA utility easements located on the subject property shall be upgraded to meet current JCSA easement standards, as applicable. This shall be accomplished with an easement plat and/or deed deemed suitable by JCSA and the County Attorney.
- 8) **Landscaping and Fencing:** The applicant shall install landscaping along the Richmond Road side of the wooden privacy fence that separates the 7424 lot and the 7426 lot. A landscape plan for this area, subject to the review and approval of the Planning Director or his/her designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance). All privacy fencing shall be maintained in good repair as shown on the Master Plan. Requests to amend the landscaping and/or fencing on the Property may be permitted by the Planning Director or his/her designee, as long as they do not degrade the aesthetics or character of the development, or reduce the effectiveness of the screening being offered.
- 9) **Outdoor Storage:** No tools, materials, or equipment may be stored outside onsite, unless it is fully screened from the view of Richmond Road and adjacent properties by landscaping and/or fencing. This condition excludes work trailers, such as a mobile generator trailer.
- 10) **Impervious Area:** The impervious area of the Property shall be minimized to the greatest extent practical. If the impervious area of the Project site exceeds 10%, Low Impact Development (LID) or other suitable measures will be provided to mitigate the effects of stormwater runoff from the Property.
- 11) **Heavy Vehicles:** Traffic to and from the site related to the contractor's office shall be limited to light-to-medium duty passenger vehicles, work trucks, and similar vehicles. Larger, heavier vehicles such as tractor-trailers, stake-bed trucks, dump trucks, and heavy construction vehicles (e.g., bulldozer, backhoe, etc.) are prohibited. Deliveries of supplies shall be made by small-box delivery trucks, or smaller vehicles.
- 12) **Hours of Operation:** The hours of operation for the Project, including the loading or unloading of deliveries to/from the site, shall be limited to 6:30AM to 5:00PM, Monday through Friday.

- 13) ***Parking of Vehicles:*** No more than ten vehicles associated with the contractor's office, to include employee vehicles, work trucks, and work trailers, may be parked on the Property at any given time. While only four parking spaces have initially been shown on the Master Plan, the applicant may add up to six other stalls on the 7426 and/or 7428 lots with an approved site plan that properly addresses all stormwater management concerns. All vehicles associated with the contractor's office shall be parked on the 7426 and 7428 lots, and shall be screened from Richmond Road and from surrounding properties by privacy fencing, buildings, and/or landscaping. For purposes of this condition, vehicles belonging to tenants of the two rental houses (including employee vehicles, if applicable) shall not be counted against the ten-vehicle limitation. Interpretations of the counting of vehicles on the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this parking restriction shall be submitted to the Development Review Committee of the Planning Commission ("DRC") in writing for consideration, to approve or deny the request.
- 14) ***Severance Clause:*** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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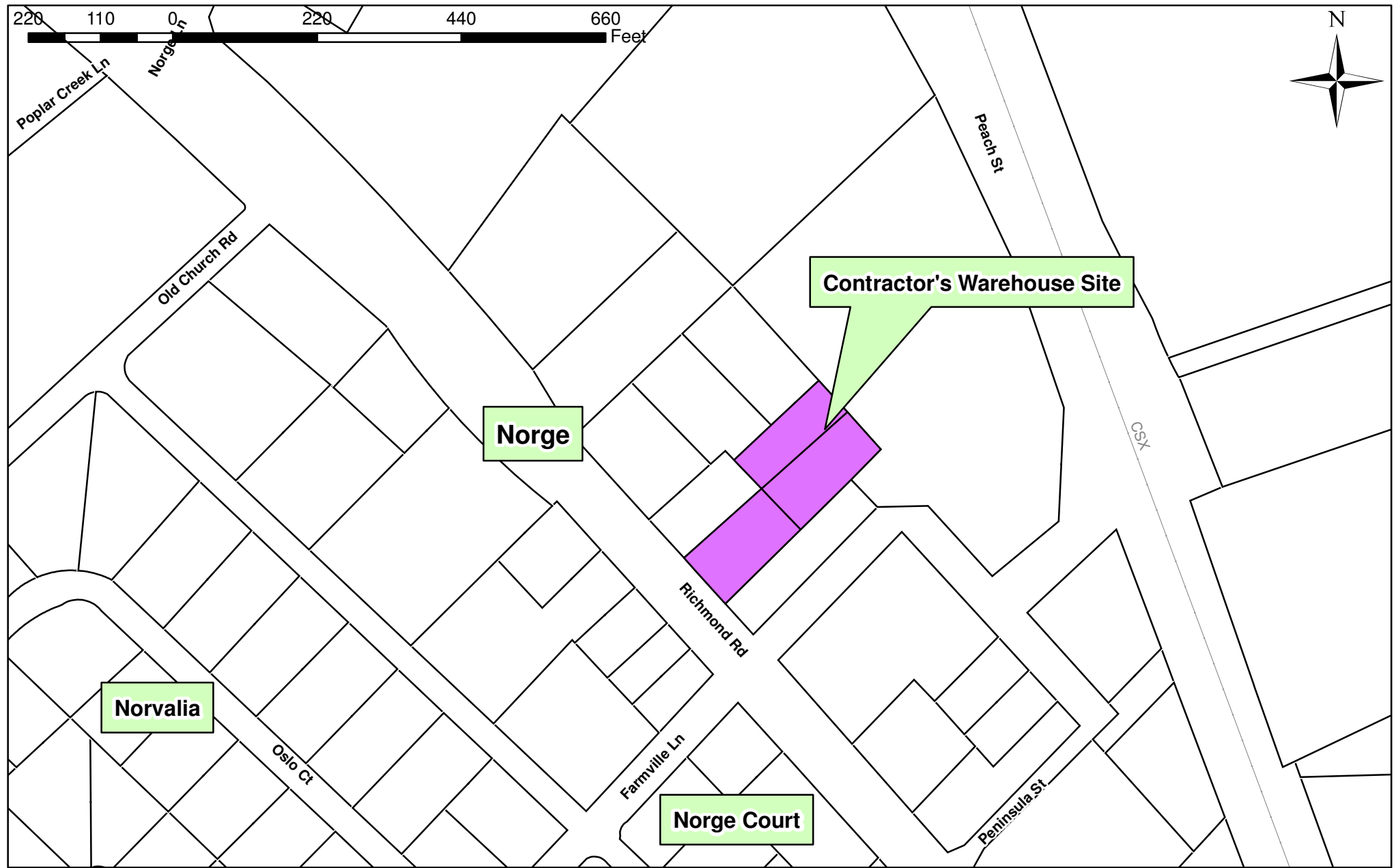
David W. German, Senior Planner

#### **ATTACHMENTS**

- 1) Location Map
- 2) Master Plan

# JCC-SUP-0010-2009

## Michael Hipple Contractor's Office





**LandTech Resources, Inc.**

Surveying • GPS • Engineering

205 Bulifants Boulevard, Suite E, Williamsburg, Virginia 23188

Telephone: 757-565-1677 Fax: 757-565-0782

Web: landtechresources.com

EXISTING IMPERVIOUS AREA: 18,785 S.F./42%

PROPOSED IMPERVIOUS AREA: 10,217 S.F./23%

TOTAL SITE AREA: 44,741 S.F.

BINDING MASTER PLAN

For:

**MICHAEL J. HIPPLE, BUILDER**

**CONTRACTING OFFICE**

7424, 7426, 7428 RICHMOND ROAD

PARCEL ID #2320200003A, 2320200003, 2320200002

JCC SUP-0010-2009

JAMES CITY COUNTY

VIRGINIA

**LEGEND**

EX. GRAVEL  
TO BE REMOVED

PROPOSED GRAVEL  
DRIVE

N/F  
YOUNG NAM ET AL  
PARCEL ID #2320200002B

N/F  
MICHAEL HIPPLE  
PARCEL ID #2320200001

N/F  
JAMES & DEBORAH ACHESON  
PARCEL ID #2320200001B

APPROX. EX. OVERSTORY  
TREELINE CONSISTING OF  
LARGE LOBLOLLY PINES

N/F  
NANCY BRADSHAW  
PARCEL ID #2320100020

EX. 6' PRIVACY  
TO BE RELOCATED

JOB #07-305

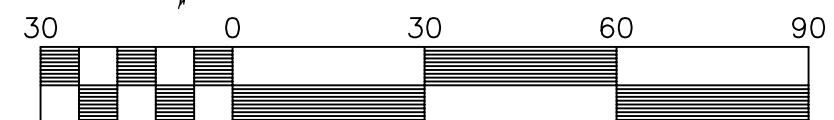
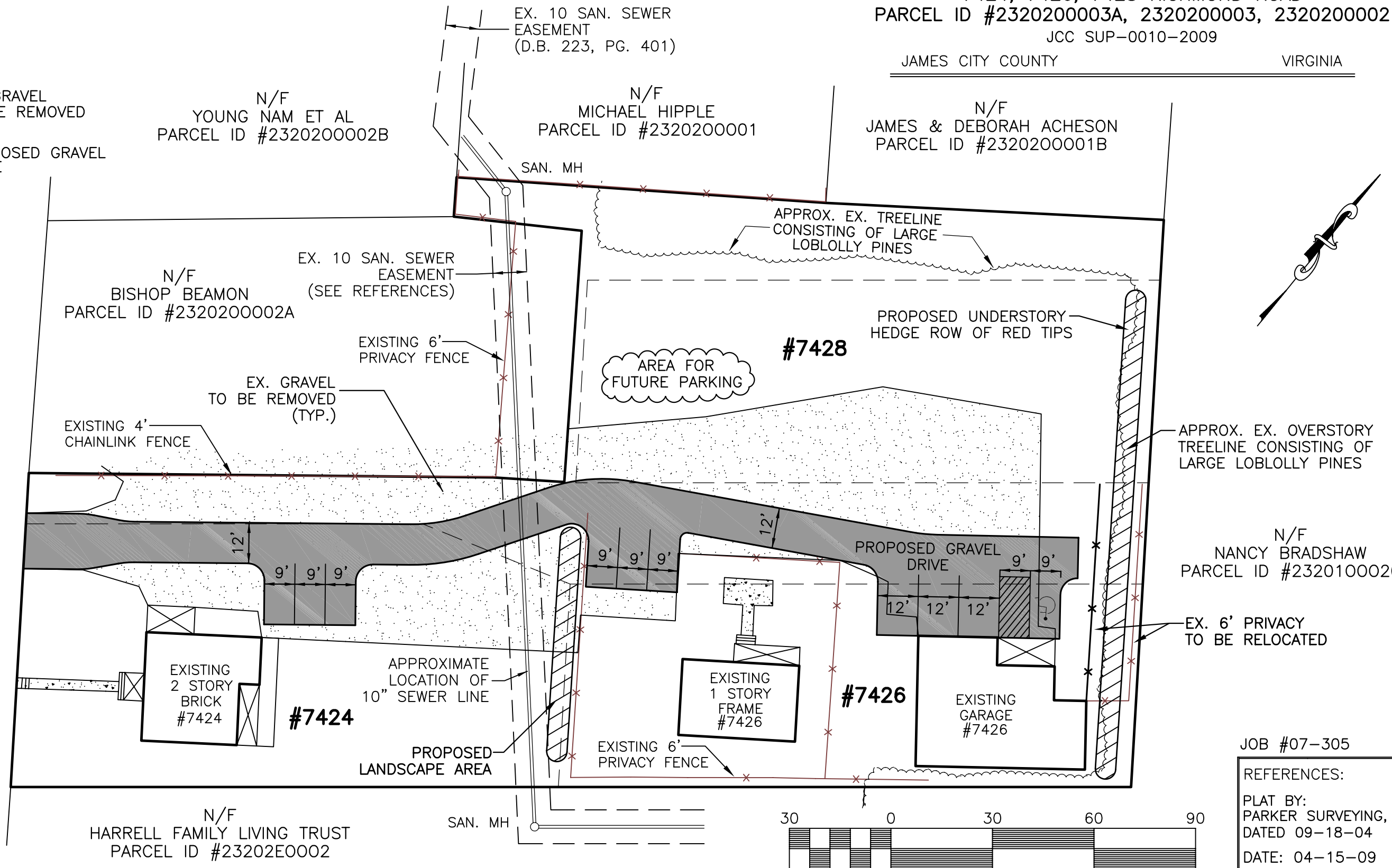
REFERENCES:

PLAT BY:  
PARKER SURVEYING, INC.  
DATED 09-18-04

DATE: 04-15-09

SCALE: 1"=30'

RICHMOND ROAD  
U.S. ROUTE 60



Scale: 1" = 30'

## PLANNING DIRECTOR'S REPORT

May 2009

This report summarizes the status of selected Planning Division activities during the past month.

- **New Town.** At its April meeting, the Design Review Board discussed DRB application fees and signage for the Patriot's Park office building. They also approved signage for Casey Corner (corner of Casey Blvd. and Discovery Park Boulevard), a boundary line extinguishment and adjustment at the corner of Courthouse St. and Main St., and revised elevations for Shops E (adjacent to Trader Joe's) in Settler's Market.
- **Policy Committee Meetings.** The Policy Committee met on April 15 to discuss an ordinance amendment to permit setback reductions in the M-1 and B-1 zoning districts for parcels in locations with approved sub-area studies and review CIP ranking criteria. The next meeting is scheduled for May 11 at 7:00 p.m. in the Building A large conference room. The Committee will continue its review of CIP ranking criteria.
- **Steering Committee.** The Steering Committee continues to hold weekly meetings in the Board Room-Building F. During the month of April, the Steering Committee discussed Transportation, Land Use, and Land Use applications and held a dedicated public comment meeting. A complete schedule, blog, and all materials are available on [www.jccplans.org](http://www.jccplans.org). The Committee is scheduled to review final text for the Comprehensive Plan and forward a recommendation to the Planning Commission and Board of Supervisors by the end of May.
- **VDOT Secondary Street Acceptance Training.** VDOT has updated their regulations regarding what new roads will be accepted into the State's system for maintenance. As the new regulation requires coordination between County staff and VDOT, the Assistant Residency Administrator will be hosting a private meeting for staff, discussing the intricacies of the new regulations and to answer questions. This meeting is scheduled for early May.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – April 14<sup>th</sup> and 28<sup>th</sup>  
SUP-0015-2008 Franciscan Brethren of St. Philip Adult Day Care – Adopted 5 – 0  
SUP-0026-2008 Diamond Healthcare, Williamsburg Place Expansion – Adopted 5 - 0  
Z-0003-2008 / MP-0003-2008 The Candle Factory – Indefinitely deferred by applicant  
ZO-0002-2009 Zoning Ordinance Amendment - Fee Addition – Home Occupation Application – Deferred until October 27, 2009



Allen J. Murphy, Jr.

Year	Calendar 2009				
	April 2009				
Case Type	Case Number	Case Title	Address	Description	Planner
Conceptual Plans	C-0013-2009	Jolly Pond Apartments	2204 JOLLY POND ROAD	Proposal of 32 garden style apartments for rental. Existing structures shall remain.	Leanne Reidenbach
	C-0014-2009	Cox Communications Power Supply Relocation / Repair	9200 DIASCUND ROAD	Replace an existing Cox Communications Power Supply Unit.	David German
	C-0015-2009	Ware Subdivision	398 STONEHOUSE ROAD	Applicant proposes subdividing 1 parcel to 2.	Jason Purse
	C-0016-2009	Archaeological Evaluation of Massie Mineral Resource Management Area		Archaeological evaluation of site 44jc0734, proposed expansion of the Massie Mineral Resource Management Area.	Sarah Propst-Worthley
	C-0017-2009	Villages at Whitehall Design Standards	3401 ROCHAMBEAU DR	Requesting changes to the White Hall Design Standards.	Sarah Propst-Worthley
	C-0018-2009	St. Bede's Church - Life & Ministry Ctr SP Amendment		This project includes the addition of a life and ministry center, and will include a 43, 000 sf building, additional parking, stormwater mgmt facilities and landscaping.	Jose Ribeiro
	C-0019-2009	Treasure Island Cell Tower	1700 TREASURE ISLAND RD	This project is to install a 120' unipole style tower on a parcel on Treasure Island Road	Leanne Reidenbach
	C-0020-2009	Temporary Parking Area	2225 JAMESTOWN ROAD	This is for a temporary parking lot owned by Jamestown - Yorktown Foundation	Luke Vinciguerra

Site Plan	SP-0030-2009	Peninsula Jail Tower Collocation SP Amend	9320 MERRIMAC TRAIL	To collocate antennas on the existing 280' tower and to install one equipment cabinet within the existing compound area.	Jose Ribeiro
	SP-0031-2009	Colonial Heritage Ph. 1 Sec. 1 Model Courts SP Amend.	6799 RICHMOND ROAD	Shift in lot lines between lots 20 and 23 and minor shifts in utility services are proposed with this plan. No additional land disturbance is proposed.	David German
	SP-0032-2009	Colonial Heritage Ph. 1 Sec. 5 also S-16-09	6799 RICHMOND ROAD	This site plan amendment is for the already constructed phase 1 section 5 project which is nearing build-out. The plans presented with this narrative are a redesign of lots 28 thru 30 , and 21 thru 26.	David German
	SP-0033-2009	Colonial Heritage Ph. III Sec. 1 SP Amend.	6799 RICHMOND ROAD	This SP Amend. is for the already constructed Phase III Sec. 1 (S-0111-2004/SP-0139-2004) project which is nearing build-out. The plans presented with this narrative are a redesign of lots 23 thru 28, 29 thru 33, 52 thru 59 and 60 thru 68.	Sarah Propst-Worthley
	SP-0034-2009	New Town Sec. 3 & 6, Block 18 Entrance	4385 NEW TOWN AVENUE	Proposes a new left-in/right-out entrance from Ironbound Road into New Town for vacant parcel north of Oxford Apartments and elimination of existing right-in/right-out entrance.	Leanne Reidenbach
	SP-0035-2009	Zooms Parking Lot SP Amend.	4449 JOHN TYLER HWY	Update parking lot design and dumpster location	Jason Purse
	SP-0036-2009	Mediterranean Restaurant	1784 JAMESTOWN ROAD	This site plan is for a new parking lot and drainage improvements	Luke Vinciguerra
	SP-0037-2009	PCS Athletic Fields	3900 JOHN TYLER HWY	Perform grading activities necessary to create athletic fields	Jennifer Van Dyke

Special Use Permit	SUP-0008-2009	CVS at Norge	7521 RICHMOND ROAD	The CVS Pharmacy will sit on the northwest corner of this parcel on approximately 2.09 acres upon subdivision.	Sarah Propst-Worthley
	SUP-0009-2009	Jamestown Road Walgreens	1322 JAMESTOWN ROAD	Applicant proposes a free standing drug store with drive up window of up to 14,500 square feet and a second free standing commercial (bank, office or retail) building of 3,500-4,500 square feet.	Leanne Reidenbach
	SUP-0010-2009	Hipple Contractor's Office	7428 RICHMOND ROAD	Project proposes a Contractor's Office on 7426 Richmond Road parcel. The 7424 and 7428 Richmond Road parcels are also included in the SUP for uses incidental to the Contractor's Office, such as overflow parking.	David German
Subdivision	S-0014-2009	Summerplace	1613 JOLLY POND ROAD	164 unit development proposed outside of PSA	Jose Ribeiro
	S-0015-2009	Kingspoint Sec. 8 Lots 16 & 17 BLA	104 ARCHERS COURT	Boundary line adjustment between two existing residential properties	Leanne Reidenbach
	S-0016-2009	Colonial Heritage Ph. 1 Sec. 5 also SP Amend. SP-32-09	6799 RICHMOND ROAD	This site plan amendment is for the already constructed phase 1 section 5 project which is nearing build-out. The plans presented with this narrative are a redesign of lots 28 thru 30 , and 21 thru 26	David German
	S-0017-2009	JCSA Tewning Road Property Line Extinguishment	149 TEWNING ROAD	Lot line extinguishments to create 1 lot out of 3 on 19.615 acres.	Sarah Propst-Worthley

Subdivision	S-0018-2009	Colonial Heritage Phase i Sec 1 Model Courts	6799 RICHMOND ROAD	Shift in lot lines between lots 20 and 23 and minor shifts in utility services are proposed with this plan. This project proposes to resize and reorder two duplex lots (Lots 20 and 21) and two SFD lots (Lots 22 and 23)	David German
	S-0019-2009	New Town Sec. 2 & 4 Block 3 Parcels G, I	4920 COURTHOUSE STREET	This is a property line extinguishment at the corner of Main Street and Courthouse Street in New Town (Barnes and Noble building and adjacent building).	Leanne Reidenbach
	S-0020-2009	Moore Family Subdivision	5302 RIVERVIEW ROAD	Family subdivision that will be creating four new lots	Luke Vinciguerra
	S-0021-2009	DeMari Minor Subdivision	124 COOLEY ROAD	Minor subdivision to create 2 lots from 1	Jason Purse